Suzanne Lee

96TH CONGRESS 2d Session | HOUSE OF REPRESENTATIVES | REPORT No. 96-1479

P.L. 96-499

OMNIBUS RECONCILIATION ACT OF 1980

NOVEMBER 26, 1980.—Ordered to be printed

Mr. GIAIMO, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 7765]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 7765) to provide for reconciliation pursuant to section 3 of the First Concurrent Resolution on the Budget for the fiscal year 1981, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

TITLE I—SHORT TITLE AND PURPOSE

SHORT TITLE

SECTION 101. This Act may be cited as the "Omnibus Reconciliation Act of 1980".

PURPOSE

SEC. 102. It is the purpose of this Act to implement the recommendations which were made by specified committees of the House of Representatives and the Senate pursuant to directions contained in section 3 of the First Concurrent Resolution on the Budget for the fiscal year 1981 (H. Con. Res. 307, 96th Congress), and pursuant to the reconciliation requirements which were imposed by such concur-

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rent resolution as provided in section 310 of the Congressional Budget Act of 1974.

TITLE II—SCHOOL LUNCH AND CHILD NUTRITION PROGRAMS

Subtitle A—Savings Under the School Lunch and Child Nutrition Programs

REDUCTION IN GENERAL REIMBURSEMENT

SEC. 201. (a) Notwithstanding section 4 of the National School Lunch Act, for the fiscal year ending September 30, 1981, the national average payment per lunch under such Act for such fiscal year, after being adjusted under section 11(a) of such Act, shall be reduced by 2½ cents for any school food authority under which less than 60 percent of the lunches served in the school lunch program were served free or at reduced price during the second preceding school year. The amount of State administrative expense funds to be made available to the States by the Secretary of Agriculture under section 7 of the Child Nutrition Act of 1966 for the fiscal year ending September 30, 1983, and the amount of State revenues appropriated or used for meeting the requirements under section 7 of the National School Lunch Act for the school year ending June 30, 1982, shall not be reduced because of a reduction in the amount of Federal funds expended as a result of the preceding sentence. For the purpose of this section, the term "school food authority" means the governing body which is responsible for the administration of one or more schools and which has the legal authority to operate a school lunch or school breakfast program.

(b) Section 7 of the Child Nutrition Act of 1966 is amended by—

(1) in subsection (e), striking out "and the succeeding fiscal year" and inserting in lieu thereof "and for the five succeeding fiscal years"; and

(2) in subsection (i), striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1984".

REDUCTION IN COMMODITY ASSISTANCE

SEC. 202. (a) For the fiscal year ending September 30, 1981, the national average value of donated foods, or cash payments in lieu thereof, as determined under section 6(e) of the National School Lunch Act, shall be reduced by 2 cents.

(b) Section 6 of the National School Lunch Act is amended by adding at the end thereof a new subsection (f) as follows:

"(f) Beginning with the school year ending June 30, 1981, the Secretary shall not offer commodity assistance based upon the number of breakfasts served to children under section 4 of the Child Nutrition Act of 1966.".

(c) Section 14(a) of the National School Lunch Act is amended by striking out "September 30, 1982" and inserting in lieu thereof "September 30, 1984.".

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INCOME ELIGIBILITY GUIDELINES

SEC. 203. (a) During the fiscal year ending September 30, 1981, the income poverty guidelines for the purposes of section 9 of the National School Lunch Act shall be the nonfarm income poverty guidelines prescribed by the Office of Management and Budget adjusted annually pursuant to section 625 of the Economic Opportunity Act of 1964 (42 U.S.C. 2971d) for the forty-eight States.

(b) In computing household income under section 9(b) of the National School Lunch Act for the fiscal year ending September 30, 1981—

(1) in States other than Alaska, Hawaii, and Guam, the Secretary shall allow a standard deduction of $60 each month for each household, which shall be adjusted to the nearest $5 on July 1, 1980, to reflect changes in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics, Department of Labor, for items other than food for the period beginning September 1977 and ending March 1980;

(2) the monthly standard deduction allowed in Alaska shall bear the same ratio to the standard deduction allowed in the contiguous States as the applicable income poverty guidelines for Alaska bear to the applicable income poverty guidelines for such States; and

(3) the monthly standard deduction allowed in Hawaii and Guam shall bear the same ratio to the standard deduction allowed in the contiguous States as the applicable income poverty guidelines for Hawaii bear to the applicable income poverty guidelines for such States.

(c) For the school year ending June 30, 1991, the Secretary may prescribe procedures for implementing the revisions in the income poverty guidelines for free and reduced price lunches contained in this section that may allow school food authorities to (1) use applications distributed at the beginning of the school year when making eligibility determinations based on the revised income poverty guidelines or (2) distribute new applications containing the revised income poverty guidelines and make eligibility determinations using the new applications.

(d) Section 17 of the Child Nutrition Act of 1966 is amended by—

(1) in subsection (c)(2), striking out "for the fiscal years ending September 30, 1981, and September 30, 1982" and inserting in lieu thereof "for the fiscal year ending September 30, 1981, and for each succeeding fiscal year ending on or before September 30, 1984";

(2) in the first sentence of subsection (g), striking out "$950,000,000 for the fiscal year ending September 30, 1982" and inserting in lieu thereof "such sums as may be necessary for the three subsequent fiscal years"; and

(3) in subsection (h)(2), striking out "1982" and inserting in lieu thereof "1984".

SPECIAL ASSISTANCE

SEC. 204. (a) Section 11(a) of the National School Lunch Act is amended by striking out in the fifth sentence ": Provided, That if in any State all schools charge students a uniform price for reduced-

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price lunches, and such price is less than 20 cents, the special assistance factor prescribed for reduced-price lunches in such State shall be equal to the special assistance factor for free lunches reduced by either 10 cents or the price charged for reduced-price lunches in such State, whichever is greater".

(b) During the fiscal year ending September 30, 1981—

(1) no semiannual adjustment required under the sixth sentence of section 11(a) shall be made on January 1 of such fiscal year; and

(2) the adjustment required under the second proviso in the sixth sentence of section 11(a) of the National School Lunch Act which is to be made on July 1 of such fiscal year shall reflect the changes in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics, Department of Labor, for lunches served during the preceding 12-month period.

MISCELLANEOUS PROVISIONS AND DEFINITIONS, NATIONAL SCHOOL LUNCH ACT

SEC. 205. Section 12(d) of the National School Lunch Act is amended by inserting in paragraph (6) ", but excluding Job Corps Centers funded by the Department of Labor" after "retarded".

SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

SEC. 206. Section 13 of the National School Lunch Act is amended by—

(1) amending subsection (b)(2) to read as follows:

"(2) Any service institution may only serve lunch and either breakfast or a meal supplement during each day of operation, except that any service institution that is a camp or that serves meals primarily to migrant children may serve up to four meals during each day of operation, if (A) the service institution has the administrative capability and the food preparation and food holding capabilities (where applicable) to serve more than one meal per day, and (B) the service period of different meals does not coincide or overlap. The meals that camps and migrant programs may serve shall include a breakfast, a lunch, a supper, and meal supplements."; and

(2) in subsection (p), striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1984".

AMENDMENT TO THE CHILD CARE FOOD PROGRAM

SEC. 207. (a) Section 17(a) of the National School Lunch Act is amended in the second sentence by inserting before the period at the end thereof the following: "; and such term shall also mean any other private organization providing nonresidential day care services for which it receives compensation from amounts granted to the States under title XX of the Social Security Act".

(b) The amendment made by subsection (a) of this section shall apply with respect to all fiscal years beginning on or after October 1, 1980.

ADJUSTMENTS

SEC. 208. (a) During the fiscal year ending September 30, 1981, in determining the national average payment rate for supplements served in institutions (other than family or group day care home sponsoring organizations) participating in the child care food program under paragraphs (1) through (3) of section 17(c) of the National School Lunch Act—

(1) no adjustment under such paragraphs shall be made on January 1 of such fiscal year; and

(2) the adjustment under such paragraphs required to be made on July 1 of such fiscal year shall be computed to the nearest one-fourth cent based on changes, measured over the preceding twelve-month period for which data are available, in the series for food away from home of the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics, Department of Labor.

(b) Section 17(c) of the National School lunch Act is amended by inserting the following at the end of paragraphs (1), (2), and (3): "The average payment rate for supplements served in such institutions shall be 3 cents lower than the adjusted rate prescribed by the Secretary in accordance with the adjustment formula contained in this paragraph.".

(c) Section 17(n)(1) of the National School Lunch Act is amended by striking out "$6,000,000" and inserting in lieu thereof "$4,000,000".

SPECIAL MILK PROGRAM

SEC. 209. Section 3 of the Child Nutrition Act of 1966 is amended by inserting the following after the seventh sentence: "Notwithstanding the preceding two sentences, the rate of reimbursement per half-pint of milk, which is served to children who are not eligible for free milk in schools, child care institutions, and summer camps participating in meal service programs under the National School Lunch Act and this Act, shall be 5 cents.".

PAYMENTS FOR FREE BREAKFASTS

SEC. 210. Notwithstanding section 4(b)(2)(B)(ii) of the Child Nutrition Act of 1966, in determining the maximum payment for free breakfasts under such section for the fiscal year ending September 30, 1981—

(1) no adjustment under such section shall be made on January 1 of such fiscal year; and

(2) the adjustment under such section required to be made on July 1 of such fiscal year shall be computed to the nearest one-fourth cent based on changes, measured ever the preceding twelve-month period for which data are available, in the series for food away from home of the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics, Department of Labor.

FOOD SERVICE EQUIPMENT ASSISTANCE

SEC. 211. Section 5 of the Child Nutrition Act of 1966 is amended by—

(1) amending subsection (a) to read as follows:

"(a) There is authorized to be appropriated $15,000,000 for the fiscal year ending September 30, 1981, $30,000,000 for the fiscal year ending September 30, 1982, $35,000,000 for the fiscal year ending September 30, 1983, and $40,000,000 for each succeeding fiscal year, to enable the Secretary to formulate and carry out a program to assist the States through grants-in-aid and other means to supply schools drawing attendance from areas in which poor economic conditions exist with equipment, other than land or buildings, for the storage, preparation, transportation, and serving of food to enable such schools to establish, maintain, and expand school food service programs. In the case of a nonprofit private school, such equipment shall be for use of such school principally in connection with child feeding programs authorized in this Act and in the National School Lunch Act."; and

(2) in subsection (e), striking out "fiscal years ending September 30, 1978, September 30, 1979, and September 30, 1980" and inserting in lieu thereof "fiscal year ending September 30, 1978, and for each succeeding fiscal year ending on or before September 30, 1984";

MISCELLANEOUS PROVISIONS AND DEFINITIONS, CHILD NUTRITION ACT OF 1966

SEC. 212. Section 15(c) of the Child Nutrition Act of 1966 is amended by inserting ", but excluding Job Corps Centers funded by the Department of Labor" after "retarded".

NUTRITION EDUCATION AND TRAINING

SEC. 213. Section 19(j)(2) of the Child Nutrition Act of 1966 is amended by—

(1) striking out "For the fiscal year beginning October 1, 1979" and inserting in lieu thereof "For the fiscal year ending September 30, 1980, and for each succeeding fiscal year ending on or before September 30, 1984";

(2) inserting after the first sentence the following: "For the fiscal year beginning October 1, 1980, and subsequent fiscal years, there is authorized to be appropriated for the grants referred to in the preceding sentence not more than $15,000,000."; and

(3) striking out "preceding sentence" and inserting in lieu thereof "second preceding sentence".

TITLE III—STUDENT LOAN PROGRAMS

SAVINGS ACHIEVED

SEC. 301. For other provisions of law which reduce spending for fiscal year 1981 in satisfaction of the reconciliation requirements imposed by sections 3(a)(2) and 3(a)(18) of H. Con. Res. 307 (96th

Congress), see the Education Amendments of 1980 (Public Law 96-374).

DISCLOSURE OF LOCATION OF BORROWERS WHO HAVE DEFAULTED ON STUDENT LOANS

SEC. 302. (a) Paragraph (4) of section 6103(m) of the Internal Revenue Code of 1954 (relating to individuals who have defaulted on student loans) is amended to read as follows:

"(4) INDIVIDUALS WHO HAVE DEFAULTED ON STUDENT LOANS.—

"(A) IN GENERAL.—Upon written request by the Secretary of Education, the Secretary may disclose the mailing address of any taxpayer who has defaulted on a loan—

"(i) made under part B or E of title IV of the Higher Education Act of 1965, or

"(ii) made pursuant to section 3(a)(1) of the Migration and Refugee Assistance Act of 1962 to a student at an institution of higher education,

for use only by officers, employees, or agents of the Department of Education for purposes of locating such taxpayer for purposes of collecting such loan.

"(B) DISCLOSURE TO EDUCATIONAL INSTITUTIONS, ETC.—Any mailing address disclosed under subparagraph (A)(i) may be disclosed by the Secretary of Education to—

"(i) any lender, or any State or nonprofit guarantee agency, which is participating under part B of title IV of the Higher Education Act of 1965, or

"(ii) any educational institution with which the Secretary of Education has an agreement under part E of title IV of such Act,

for use only by officers, employees or agents of such lender, guarantee agency, or institution whose duties relate to the collection of student loans for purposes of locating individuals who have defaulted on student loans made under such loan programs for purposes of collecting such loans.".

(b) The first sentence of section 7213(a)(2) of such Code (relating to unauthorized disclosure of information by State and other employees) is amended to read as follows: "It shall be unlawful for any person (not described in paragraph (1)) willfully to disclose to any person, except as authorized in this title, any return or return information (as defined in section 6103(b)) acquired by him or another person under subsection (d), (l)(6) or (7), or (m)(4) of section 6103.".

(c) The amendments made by subsections (a) and (b) of this section shall take effect on the date of the enactment of this Act.

TITLE IV—CIVIL SERVICE, POSTAL SERVICE, AND RELATED PROGRAMS

Subtitle A—Savings Under the Civil Service Program

ELIMINATION OF RETROACTIVE ANNUITY ADJUSTMENT; PRORATION OF INITIAL ADJUSTMENT

SEC. 401. (a) Section 8340(c) of title 5, United States Code, relating to cost-of-living adjustments, is amended—

(1) by striking out paragraph (1) thereof; and

(2) by inserting in lieu thereof the following new paragraph:

"(1) The first increase (if any) made under subsection (b) of this section to an annuity which is payable from the Fund to an employee or Member who retires, or to the widow or widower of a deceased employee or Member, shall be equal to the product (adjusted to the nearest 1/10 of 1 percent) of—

"(A) ⅙ of the applicable percent change computed under subsection (b) of this section, multiplied by

"(B) the number of full months for which the annuity was payable from the Fund before the effective date of the increase (counting any portion of a month as a full month).".

(b)(1) The amendment made by subsection (a)(1) shall apply with respect to annuities commencing after the 45th day after the date of the enactment of this Act.

(2) The amendment made by subsection (a)(2) shall take effect with respect to any annuity increase which takes effect after the date of the enactment of this Act.

ELIMINATION OF CREDIT FOR HOLIDAYS IN CALCULATING LUMP-SUM LEAVE PAYMENTS

SEC. 402. (a) Section 5551(a) of title 5, United States Code, relating to lump-sum payment at separation for accumulated leave, is amended by adding at the end thereof the following new sentence: "The period of leave used for calculating the lump-sum payment shall not be extended due to any holiday occurring after separation.".

(b) The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to employees separating from the service on or after such date.

DISABILITY RETIREMENT ELIGIBILITY

SEC. 403. (a) Section 8337(a) of title 5, United States Code, relating to disability retirement, is amended to read as follows:

"(a) An employee who completes 5 years of civilian service and has become disabled shall be retired on the employee's own application or on application by the employee's agency. Any employee shall be considered to be disabled only if the employee if found by the Office of Personnel Management to be unable, because of disease or injury, to render useful and efficient service in the employee's posi-

tion and is not qualified for reassignment, under procedures prescribed by the Office, to a vacant position which is in the agency at the same grade or level and in which the employee would be able to render useful and efficient service. For the purpose of the preceding sentence, an employee of the United States Postal Service shall be considered not qualified for a reassignment described in that sentence if the reassignment is to a position in a different craft or is inconsistent with the terms of a collective bargaining agreement covering the employee. A Member who completes 5 years of Member service and is found by the Office to be disabled for useful and efficient service as a Member because of disease or injury shall be retired on the Member's own application. An annuity authorized by this section is computed under section 8339(g) of this title, unless the employee or Member is eligibile for a higher annuity computed under section 8339(a)–(e) or (n).".

(b) Section 8331 of title 5, United States Code, is amended by striking out paragraph (6).

(c) The amendments made by this section shall take effect on the 90th day after the date of the enactment of this Act.

MINIMUM DISABILITY RETIREMENT ANNUITY

SEC. 404. (a) Section 8339(g) of title 5, United States Code, is amended by adding at the end thereof the following: "However, if an employee or Member retiring under section 8337 of this title is receiving retired pay or retainer pay for military service (except that specified in section 8332(c) (1) or (2) of this title) or Veterans' Administration pension or compensation in lieu of such retired or retainer pay, the annuity of that employee or Member shall be computed under subsection (a), (b), or (c) of this section, as appropriate, excluding credit for military service from that computation. If the amount of the annuity so computed, plus the retired or retainer pay which is received, or which would be received but for the application of the limitation in section 5532 of this title, or the Veterans' Administration pension or compensation in lieu of such retired or retainer pay, is less than the smaller of the annuity otherwise payable under paragraph (1) or (2) of this subsection, an amount equal to the difference shall be added to the annuity payable under subsection (a), (b), or (c) of this section, as appropriate.".

(b) Section 8347 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(m) Notwithstanding any other provision of law, for the purpose of ensuring the accuracy of information used in the administration of this chapter, at the request of the Director of the Office of Personnel Management—

"(1) the Secretary of Defense or the Secretary's designee shall provide information on retired or retainer pay provided under title 10; and

"(2) the Administrator of Veterans Affairs shall provide information on pensions or compensation provided under title 38.

The Director shall request only such information as the Director determines is necessary. The Director, in consultation with the officials from whom information is requested, shall establish, by regulation and otherwise, such safeguards as are necessary to ensure that information made available under this subsection is used only for the purpose authorized.".

(c) The amendments made by this section shall take effect on the date of the enactment of this Act.

EXEMPTION OF LIFE INSURANCE PREMIUMS FROM STATE TAXATION

SEC. 405. (a) Section 8714 of title 5, United States Code, relating to Employees' Life Insurance Fund, is amended by adding at the end thereof the following new subsection:

"(c)(1) No tax, fee, or other monetary payment may be imposed or collected by any State, the District of Columbia, or the Commonwealth of Puerto Rico, or by any political subdivision or other governmental authority thereof, on, or with respect to, any premium paid under an insurance policy purchased under this chapter.

"(2) Paragraph (1) of this subsection shall not be construed to exempt any company issuing a policy of insurance under this chapter from the imposition, payment, or collection of a tax, fee, or other monetary payment on the net income or profit accruing to or realized by that company from business conducted under this chapter, if that tax, fee, or payment is applicable to a broad range of business activity.".

(b) The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to premiums paid on or after such date.

Subtitle B—Savings Under the Postal Service Program

AUTHORIZATIONS FOR PUBLIC SERVICE APPROPRIATIONS

SEC. 411. Section 2401(b)(1)(C) of title 39, United States Code, is amended by striking out "an amount equal to 8 percent of such sum for fiscal year 1971" and inserting in lieu thereof "$486,000,000".

CONTINUATION OF SIX-DAY MAIL DELIVERY

SEC. 412. During the period from the date of enactment of this Act until October 1, 1981, the Postal Service shall take no action to reduce or to plan to reduce during that period of time the number of days each week for regular mail delivery.

AUTHORIZATION FOR REVENUE FOREGONE APPROPRIATIONS

SEC. 413. (a) Notwithstanding the provisions of sections 2401(c) and 3626 of title 39, United States Code, the authorization for appropriations for fiscal year 1981 for revenue foregone for mail matter described in former sections 4452 (b) and (c) of title 39, United States Code, shall be $50,000,000 less than would be authorized if this section were not enacted.

(b) The reduction in authorization made by subsection (a) of this section may be deemed a failure of appropriation for the purposes of section 3627 of title 39, United States Code.

RECONCILIATION APPROPRIATIONS

SEC. 414. (a) Section 2401(c) of title 39, United States Code, is amended by adding at the end thereof the following new sentence: "In requesting an appropriation under this subsection for a fiscal

year, the Postal Service shall include an amount to reconcile sums authorized to be appropriated for prior fiscal years on the basis of estimated mail volume with sums which would have been authorized to be appropriated if based on the final audited mail volume.".

(b) The request for a reconciliation appropriation described in subsection (a) of this section which was submitted by the Postal Service for fiscal year 1981 shall be resubmitted for fiscal year 1982.

EFFECTIVE DATE

SEC. 415. The provisions of this subtitle, including the amendments made by this subtitle, shall take effect on the date of the enactment of this Act.

Subtitle C—Savings Under the Federal Employees' Compensation Act

AMENDMENTS

SEC. 421. (a) Subsection (a) of section 8146a of title 5, United States Code, is amended to read as follows:

"(a) Compensation payable on account of disability or death which occurred more than one year before March 1 of each year shall be annually increased on that date by the amount determined by the Secretary of Labor to represent the percent change in the price index published for December of the preceding year over the price index published for the December of the year prior to the preceding year, adjusted to the nearest one-tenth of 1 percent.".

(b) Section 8101 of title 5, United States Code, is amended by striking out paragraph (19), and by redesignating paragraphs (20) and (21) as paragraphs (19) and (20), respectively.

EFFECTIVE DATE

SEC. 422. The amendments made by section 421 shall take effect on the date of the enactment of this Act with respect to any adjustments which are to be made on or after that date; except that the period specified in such section as extending from December to December shall, with respect to the adjustment to be made on March 1, 1981, extend instead from the last month in which the price index resulted in an adjustment prior to enactment to December of 1980.

TITLE V—HIGHWAY, RAIL, AND RELATED PROGRAMS

Subtitle A—Highway Programs

SEC. 501. Notwithstanding any other provision of law, the total of all obligations for "State and Community Highway Safety" (23 U.S.C. 402) for the fiscal year ending September 30, 1981, shall not exceed $150,405,000.

Subtitle B—Other Programs

Sec. 511. If the Senate and the House of Representatives approve a conference report on the bill (S. 1159) to authorize appropriations for the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act, and for other purposes, which includes an authorization for fiscal year 1981 pursuant to section 121 of the National Traffic and Motor Vehicle Safety Act of 1966 that exceeds $53,800,000, then the Secretary of the Senate is directed to include the following provision in the enrolled copy of such bill: "Of the funds authorized to be appropriated pursuant to section 121 of the National Traffic Motor Vehicle Safety Act of 1966 (15 U.S.C. 1409) not more than $53,800,000 is authorized to be appropriated in fiscal year 1981.".

Sec. 512. (a) For provisions of law which reduce spending for fiscal year 1981 under the railroad rehabilitation and improvement financing program established under title V of the Railroad Revitalization and Regulatory Reform Act of 1976 in satisfaction of the reconciliation requirements imposed by sections 3(a)(3) and 3(a)(13) of H. Con. Res. 307 (96th Congress), see the Staggers Rail Act of 1980 (Public Law 96-448).

(b) For provisions of law which further reduce spending for fiscal year 1981 in satisfaction of the reconciliation requirements imposed by sections 3(a)(3) and 3(a)(13) of H. Con. Res. 307 (96th Congress), see the Passenger Railroad Rebuilding Act of 1980 (Public Law 96-254).

TITLE VI—AIRPORT AND AIRWAY IMPROVEMENT ACT

Sec. 601. Notwithstanding any other provision of law, the total amount of grants which the Secretary is authorized to make from the Airport and Airway Trust Fund for airport development and airport planning and for grants under section 104(e) of the Airport Safety and Noise Abatement Act of 1979, as amended, for the fiscal year ending September 30, 1981, shall not exceed $725,000,000.

TITLE VII—VETERANS' PROGRAMS

Sec. 701. For provisions of law which reduce spending for fiscal year 1981 in veterans' programs in satisfaction of the reconciliation requirements imposed by sections 3(a)(7) and 3(a)(20) of H. Con. Res. 307 (96th Congress), see section 401 of the Veterans' Administration Health-Care Amendments of 1980 (Public Law 96-330), section 504 of the Veterans' Disability Compensation and Housing Benefits Amendments of 1980 (Public Law 96-385), and sections 201, 202, 211, 212, and 802(b), and title VI, of the Veterans' Rehabilitation and Education Amendments of 1980 (Public Law 96-466).

TITLE VIII—SMALL BUSINESS PROGRAMS

Sec. 801. For provisions of law which reduce spending for fiscal 1981 in small business programs in satisfaction of the reconciliation

requirements imposed by sections 3(a)(6) and 3(a)(19) of H. Con. Res. 307 (96th Congress), see Public Law 96-302 (the Small Business Development Act of 1980).

TITLE IX—MEDICARE AND MEDICAID RELATED PROVISIONS

SHORT TITLE; TABLE OF CONTENTS OF TITLE

SEC. 900. This title may be cited as the "Medicare and Medicaid Amendments of 1980".

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Sec. 963. Extension of increased funding for State medicaid fraud control units.
Sec. 964. Change in calendar quarter for which satisfactory utilization review must be shown to receive waiver of medicaid reduction.
Sec. 965. Reimbursement under medicaid for services furnished by nurse-midwives.
Sec. 966. Demonstration projects relating to the training of AFDC recipients as home health aides.

Part A—Provisions Relating to Medicare and Medicaid

Subpart I—Provider Reimbursement Changes

NONPROFIT HOSPITAL PHILANTHROPY

Sec. 901. (a) Part A of title XI of the Social Security Act is amended by adding at the end thereof the following new section:

"NONPROFIT HOSPITAL PHILANTHROPY

"Sec. 1134. For purposes of determining, under titles V, XVIII, and XIX of this Act, the reasonable costs of services provided by nonprofit hospitals, the following items shall not be deducted from the operating costs of such hospitals:

"(1) A grant, gift, or endowment, or income therefrom, which is to or for such a hospital and which has not been designated by the donor for paying any specific operating costs.

"(2) A grant or similar payment which is to such a hospital, which was made by a government entity, and which is not available under the terms of the grant or payment for use as operating funds.

"(3) Those types of donor designated grants and gifts (including grants and similar payments which are made by a governmental entity), and income therefrom, which the Secretary determines, in the best interests of needed health care, should be encouraged.

"(4) The proceeds from the scale or mortgage of any real estate or other capital asset of such a hospital, which real estate or asset the hospital acquired through gift or grant, if such proceeds are not available for use as operating funds under the terms of the gift or grant.

Paragraph (4) shall not apply to the recovery of the appropriate share of depreciation when gains or losses are realized from the disposal of depreciable assets.".

(b) The amendment made by subsection (a) shall apply to grants, gifts, and endowments, and income therefrom, made or established after the date of the enactment of this Act.

REIMBURSEMENT FOR INAPPROPRIATE INPATIENT HOSPITAL SERVICES

SEC. 902. (a)(1) Section 1861(v)(1) of the Social Security Act is amended by adding at the end thereof the following new subparagraph:

"(G)(i) In any case in which a hospital provides inpatient services to an individual that would constitute post-hospital extended care services if provided by a skilled nursing facility and a Professional Standards Review Organization (or, in the absence of such a qualified organization, an organization or agency with review responsibility as is otherwise provided for under part A of title XI) determines that inpatient hospital services for the individual are not medically necessary but post-hospital extended care services for the individual are medically necessary and such extended care services are not otherwise available to the individual (as determined in accordance with criteria established by the Secretary) at the time of such determination, payment for such services provided to the individual shall continue to be made under this title at the payment rate described in clause (ii) during the period in which—

"(I) such post-hospital extended care services for the individual are medically necessary and not otherwise available to the individual (as so determined),

"(II) inpatient hospital services for the individual are not medically necessary, and

"(III) the individual is entitled to have payment made for post-hospital extended care services under this title,

except that if the Secretary determines that the hospital had (during the immediately preceding calendar year) an average daily occupancy rate of 80 percent or more, such payment shall be made (during such period) on the basis of the reasonable cost of inpatient hospital services.

"(ii)(I) Except as provided in subclause (II), the payment rate referred to in clause (i) is a rate equal to the estimated adjusted Statewide average rate per patient-day paid for services provided in

skilled nursing facilities under the State plan approved under title XIX for the State in which such hospital is located, or, if the State in which the hospital is located does not have a State plan approved under title XIX, the estimated adjusted State-wide average allowable costs per patient-day for extended care services under this title in that State.

"(II) If a hospital has a unit which is a skilled nursing facility, the payment rate referred to in clause (i) for the hospital is a rate equal to the lesser of the rate described in subclause (I) or the allowable costs in effect under this title for extended care services provided to patients of such unit.

"(iii) Any day on which an individual receives inpatient services for which payment is made under this subparagraph shall, for purposes of this Act (other than this subparagraph), be deemed to be a day on which the individual received inpatient hospital services.

"(iv) For the purpose of determining the occupancy rate with respect to hospitals under clause (i)—

"(I) public hospitals under common ownership may elect (with the approval of the Secretary) to be treated as a single hospital, and

"(II) beginning two years after the date this subparagraph is first applied with respect to a hospital, the Secretary, to the extent feasible, shall not treat as an inpatient an individual with respect to whom payment is made to the hospital only because of this subparagraph or section 1902(h).".

(2) For amendment to section 1158(a) of the Social Security Act relating to these provisions, see section 931(h) of this title.

(3) Section 1158(d) of such Act is amended by adding at the end the following new sentence: "In the case of disapproval of inpatient hospital services where payment for inpatient services is continued under section 1861(v)(1)(G) or section 1902(h), the previous sentence shall not apply with respect to such disapproval.".

(b)(1) Section 1902(a)(13)(D) of such Act is amended—

(A) by inserting "(i)" after "(D)",

(B) by striking out the semicolon and inserting in lieu thereof a comma, and

(C) by inserting at the end thereof the following new clause:

"(ii) for payment of the reasonable cost of inappropriate inpatient services (described in subsection (h)(1)) for which payment is provided only because of subsection (h) at the rate of payment for such services provided for under such subsection.".

(2) Section 1902 of such Act is further amended by adding at the end the following new subsection:

"(h)(1) In any case in which a hospital provides inpatient services to an individual that would constitute skilled nursing facility services if provided by a skilled nursing facility or that would constitute intermediate care facility services if provided by an intermediate care facility and a Professional Standards Review Organization (or, in the absence of such a qualified organization, an organization or agency with review responsibility as is otherwise provided for under part A of title XI) determines that inpatient hospital services for the individual are not medically necessary but skilled nursing facility services or intermediate care facility services, respectively, for the individual are medically necessary and such type of facility services are not otherwise available to the individual (as determined in ac-

cordance with criteria established by the Secretary) at the time of such determination, payment for inpatient hospital services shall continue to be made under the State plan approved under this title at the payment rate described in paragraph (2) for such type of services during the period in which—

"(A) such skilled nursing facility services or intermediate care facility services (as the case may be) for the individual are medically necessary and not otherwise available to the individual (as so determined),

"(B) inpatient hospital services for the individual are not medically necessary, and

"(C) the individual is entitled to receive medical assistance with respect to such facility services under the State plan,

except that if the Secretary determines that the hospital had (during the immediately preceding calendar year) an average daily occupancy rate of 80 percent or more, such payment shall be made (during such period) on the same basis as otherwise used under the State's plan for payments for providing inpatient hospital services.

"(2)(A) Except as provided in subparagraph (B), the payment rate referred to in paragraph (1), in the case of skilled nursing facility services or intermediate care facility services, is the estimated adjusted State-wide average rate per patient-day paid for such respective type of services provided under the State plan.

"(B) If a hospital has a unit which is a skilled nursing facility or intermediate care facility, the payment rate referred to in paragraph (1), in the case of inpatient services which constitute skilled nursing facility services or intermediate care facility services, is a rate equal to the lesser of the rate described in subparagraph (A) or the allowable costs in effect under the State plan for such type of inpatient services provided to patients of such unit.

"(3) Any day on which an individual receives inpatient services for which payment is made under this subsection shall, for purposes of this Act (other than this subsection), be deemed to be a day on which the individual received inpatient hospital services.

"(4) For the purpose of determining the occupancy rate with respect to hospitals under paragraph (2)—

"(A) public hospitals under common ownership may elect (with the approval of the Secretary) to be treated as a single hospital, and

"(B) beginning two years after the date this subsection is first applied with respect to a hospital, the Secretary, to the extent feasible, shall not treat as an inpatient an individual with respect to whom payment is made to the hospital only because of this subsection or section 1861(v)(1)(G).".

(c) The amendments made by this section shall become effective on the date of which final regulations, promulgated by the Secretary to implement such amendments, are first issued; and those regulations shall be issued not later than the first day of the sixth month following the month in which this Act is enacted.

CONTINUED USE OF DEMONSTRATION PROJECT REIMBURSEMENT SYSTEMS

SEC. 903. (a) Section 1814(b) of the Social Security Act is amended—

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(1) by inserting "except as provided in paragraph (3)," in paragraph (1) before "the lesser",

(2) by striking out "or" at the end of paragraph (1),

(3) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; or", and

(4) by adding at the end thereof the following new paragraph:

"(3) if some or all of the hospitals in a State have been reimbursed for services (for which payment may be made under this part) pursuant to a reimbursement system approved as a demonstration project under section 402 of the Social Security Amendments of 1967 or section 222 of the Social Security Amendments of 1972, if the rate of increase in such hospitals in their costs per hospital inpatient admission of individuals entitled to benefits under this part over the duration of such project was equal to or less than such rate of increase for admissions of such individuals with respect to all hospitals in the United States during such period, and if either the State has legislative authority to operate such system and the State elects to have reimbursement to such hospitals made in accordance with this paragraph or the system is operated through a voluntary agreement of hospitals and such hospitals elect to have reimbursement to those hospitals made in accordance with this paragraph, then the Secretary may provide for continuation of reimbursement to such hospitals under such system until the Secretary determines that—

"(A) a third-party payor reimburses such a hospital on a basis other than under such system, or

"(B) the rate of increase for the previous three-year period in such hospitals in costs per hospital inpatient admission of individuals entitled to benefits under this part is greater than such rate of increase for admissions of such individuals with respect to all hospitals in the United States for such period.

In the case of any State which has had such a demonstration project reimbursement system in continuous operation since July 1, 1977, the Secretary shall provide under paragraph (3) for continuation of reimbursement to hospitals in the State under such system until the Secretary determines that either of the conditions described in subparagraph (A) or (B) of such paragraph has occurred.".

(b) Section 1902(a)(13)(D)(i) of such Act, as amended by section 902(b)(1) of this title, is amended by inserting after "title XVIII" the following: ", except that in the case of hospitals reimbursed for services under part A of title XVIIII in accordance with section 1814(b)(3), the plan must provide for payment of inpatient hospital services provided in such hospitals under the plan in accordance with the reimbursement system used under such section".

(c) Notwithstanding any other provision of law, the Secretary of Health and Human Services (hereinafter in this title referred to as the "Secretary") may not provide for more than a total of six Statewide medicare hospital reimbursement demonstration projects under the authority of section 402 of the Social Security Amendments of 1967 or of section 222 of the Social Security Amendments of 1972, including any such projects provided for before the date of the enactment of this Act.

HOSPITAL PROVIDERS OF LONG-TERM CARE SERVICES ("SWING-BEDS")

SEC. 904. (a)(1) Title XVIII of the Social Security Act is amended by adding after section 1882 the following new section:

"HOSPITAL PROVIDERS OF EXTENDED CARE SERVICES

"SEC. 1883. (a)(1) Any hospital (other than a hospital which has in effect a waiver under subparagraph (A) of the last sentence of section 1861(e)) which has an agreement under section 1866 may (subject to subsection (b)) enter into an agreement with the Secretary under which its inpatient hospital facilities may be used for the furnishing of services of the type which, if furnished by a skilled nursing facility, would constitute extended care services.

"(2)(A) Notwithstanding any other provision of this title, payment to any hospital for services furnished under an agreement entered into under this section shall be based upon the reasonable cost of the services as determined under subparagraph (B).

"(B)(i) The reasonable cost of the services consists of the reasonable cost of routine services (determined under clause (ii)) and the reasonable cost of ancillary services (determined under clause (iii)).

"(ii) The reasonable cost of routine services furnished during any calendar year by a hospital under an agreement under this section is equal to the product of—

"(I) the number of patient-days during the year for which the services were furnished, and

"(II) the average reasonable cost per patient-day, such average reasonable cost per patient-day being the average rate per patient-day paid for routine services during the previous calendar year under the State plan (of the State in which the hospital is located) under title XIX to skilled nursing facilities located in the State and which meet the requirements specified in section 1902(a)(28), or, in the case of a hospital located in a State which does not have such a State plan, the average rate per patient-day paid for routine services during the previous calendar year under this title to skilled nursing facilities in such State.

"(iii) The reasonable cost of ancillary services shall be determined in the same manner as the reasonable cost of ancillary services provided for inpatient hospital services.

"(b) The Secretary may not enter into an agreement under this section with any hospital unless—

"(1) except as provided under subsection (g), the hospital is located in a rural area and has less than 50 beds, and

"(2) the hospital has been granted a certificate of need for the provision of long-term care services from the State health planning and development agency (designated under section 1521 of the Public Health Service Act) for the State in which the hospital is located.

"(c) An agreement with a hospital under this section shall, except as otherwise provided under regulations of the Secretary, be of the same duration and subject to termination on the same conditions as are agreements with skilled nursing facilities under section 1866 and shall, where not inconsistent with any provision of this section, impose the same duties, responsibilities, conditions, and limitations, as those imposed under such agreements entered into under section

1866; except that no such agreement with any hospital shall be in effect for any period during which the hospital does not have in effect an agreement under section 1866, or during which there is in effect for the hospital a waiver under subparagraph (A) of the last sentence of section 1861(e). A hospital with respect to which an agreement under this section has been terminated shall not be eligible to enter into a new agreement until a two-year period has elapsed from the termination date.

"(d) Any agreement with a hospital under this section shall provide that payment for services will be made only for services for which payment would be made as post-hospital extended care services if those services had been furnished by a skilled nursing facility under an agreement entered into under section 1866; and any individual who is furnished services, for which payment may be made under an agreement under this section, shall, for purposes of this title (other than this section), be deemed to have received post-hospital extended care services in like manner and to the same extent as if the services furnished to him had been post-hospital extended care services furnished by a skilled nursing facility under an agreement under section 1866.

"(e) During a period for which a hospital has in effect an agreement under this section, in order to allocate routine costs between hospital and long-term care services for purposes of determining payment for inpatient hospital services, the total reimbursement due for routine services from all classes of long-term care patients (including title XVIII, title XIX, and private pay patients) shall be subtracted from the hospital's total routine costs before calculations are made to determine title XVIII reimbursement for routine hospital services.

"(f) A hospital which enters into an agreement with the Secretary under this section shall be required to meet those conditions applicable to skilled nursing facilities relating to discharge planning and the social services function (and staffing requirements to satisfy it) which are promulgated by the Secretary under section 1861(j)(15). Services furnished by such a hospital which would otherwise constitute post-hospital extended care services if furnished by a skilled nursing facility shall be subject to the same requirements applicable to such services when furnished by a skilled nursing facility except for those requirements the Secretary determines are inappropriate in the case of these services being furnished by a hospital under this section.

"(g) The Secretary may enter into an agreement under this section on a demonstration basis with any hospital which does not meet the requirement of subsection (b)(1), if the hospital otherwise meets the requirements of this section.".

(b) Title XIX of such Act is amended by adding after section 1912 the following new section:

"HOSPITAL PROVIDERS OF SKILLED NURSING AND INTERMEDIATE CARE SERVICES

"SEC. 1913. (a) Notwithstanding any other provision of this title, payment may be made, in accordance with this section, under a State plan approved under this title for skilled nursing facility serv-

ices and intermediate care facility services furnished by a hospital which has in effect an agreement under section 1883.

"(b)(1) Payment to any such hospital, for any skilled nursing or intermediate care facility services furnished pursuant to subsection (a), shall be at a rate equal to the average rate per patient-day paid for routine services during the previous calendar year under the State plan to skilled nursing and intermediate care facilities, respectively, located in the State in which the hospital is located. The reasonable cost of ancillary services shall be determined in the same manner as the reasonable cost of ancillary services provided for inpatient hospital services.

"(2) With respect to any period for which a hospital has an agreement under section 1883, in order to allocate routine costs between hospital and long-term care services, the total reimbursement for routine services due from all classes of long-term care patients (including title XVIII, title XIX, and private pay patients) shall be subtracted from the hospital total routine costs before calculations are made to determine reimbursement for routine hosptial services under the State plan.".

(c) Within three years after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the Congress a report evaluating the programs established by the amendments made by this section and shall include in such report an analysis of—

(1) the extent and effect of the agreements under such programs on availability and effective and economical provision of long-term care services,

(2) whether such programs should be continued,

(3) the results of any demonstration projects conducted under such programs, and

(4) whether eligibility to participate in such programs should be extended to other hospitals, regardless of bed size or geographic location, where there is a shortage of long-term care beds.

(d) The amendments made by this section shall become effective on the date on which final regulations, promulgated by the Secretary to implement such amendments, are first issued; and those regulations shall be issued not later than the first day of the sixth month following the month in which this Act is enacted.

WITHHOLDING OF FEDERAL SHARE OF PAYMENTS TO MEDICAID PROVIDERS TO RECOVER MEDICARE OVERPAYMENTS

SEC. 905. (a) Subparagraphs (D)(i) and (E) of section 1902(a)(13) of the Social Security Act are each amended by inserting "(except where the State agency is subject to an order under section 1914)" after "payment".

(b) Section 1903(a)(1) of such Act is amended by striking out "subject to subsections (g) and (h)" and inserting in lieu thereof "subject to subsections (g), (h), and (j)".

(c)(1) Section 1903(j) of such Act is amended to read a follows:

"(j) Notwithstanding the preceding provisions of this section, the amount determined under subsection (a)(1) for any State for any quarter shall be adjusted in accordance with section 1914.".

(2) Section 1903(n) of such Act is amended by striking out "or is subject to a suspension of payment order issued under subsection (j)".

(d) Title XIX of such Act is amended by adding after section 1913 (added by section 904(b) of this title) the following new section:

"WITHHOLDING OF FEDERAL SHARE OF PAYMENTS FOR CERTAIN MEDICARE PROVIDERS

"SEC. 1914. (a) The Secretary may adjust, in accordance with this section, the Federal matching payment to a State with respect to expenditures for medical assistance for care or services furnished in any quarter by—

"(1) an institution (A) which has or previously had in effect an agreement with the Secretary under section 1866; and (B)(i) from which the Secretary has been unable to recover overpayments made under title XVIII, or (ii) from which the Secretary has been unable to collect the information necessary to enable him to determine the amount (if any) of the overpayments made to such institution under title XVIII; and

"(2) any person (A) who (i) has previously accepted payment on the basis of an assignment under section 1842(b)(3)(B)(ii), and (ii) during the annual period immediately preceding such quarter submitted no claims for payment under title XVIII, or submitted claims for payment under title XVIII which aggregated less than the amount of overpayments made to him, and (B)(i) from whom the Secretary has been unable to recover overpayments received in violation of the terms of such assignment, or (ii) from whom the Secretary has been unable to collect the information necessary to enable him to determine the amount (if any) of the overpayments made to such person under title XVIII.

"(b) The Secretary may (subject to the remaining provisions of this section) reduce payment to a State under this title for any quarter by an amount equal to the lesser of the Federal matching share of payments to any institution or person specified in subsection (a), or the total overpayments to such institution or person under title XVIII, and may require the State to reduce its payment to such institution or person by such amount.

"(c) The Secretary shall not make any adjustment in the payment to a State, nor require any adjustment in the payment to an institution or person, pursuant to subsection (b) until after he has provided adequate notice (which shall be not less than 60 days) to the State agency and the institution or person.

"(d) The Secretary shall by regulation provide procedures for implementation of this section, which procedures shall (1) determine the amount of the Federal payment to which the institution or person would otherwise be entitled under this section which shall be treated as a setoff against overpayments under title XVIII, and (2) assure the restoration to the institution or person of amounts withheld under this section which are ultimately determined to be in excess of overpayments under title XVIII and to which the institution or person would otherwise be entitled under this title.

"(e) The Secretary shall restore to the trust funds established under sections 1817 and 1841, as appropriate, amounts recovered under this section as setoffs against overpayments under title XVIII.

"(f) Notwithstanding any other provision of this title, an institution or person shall not be entitled to recover from any State any amount in payment for medical care and services under this title which is withheld by the State agency pursuant to an order by the Secretary under subsection (b).".

Subpart II—Other Administrative Provisions

QUALITY ASSURANCE PROGRAMS FOR CLINICAL LABORATORIES

SEC. 911. Section 1123(a) of the Social Security Act is amended by striking out "1977" and inserting in lieu thereof "1918".

REQUIREMENTS CONCERNING REPORTING OF FINANCIAL INTEREST

SEC. 912. (a) Section 1124(a)(3)(A)(ii) of the Social Security Act is amended to read as follows:

"(ii) is the owner of a whole or part interest in any mortgage, deed of trust, note, or other obligation secured (in whole or in part) by the entity or any of the property or assets thereof, which whole or part interest is equal to or exceeds $25,000 or 5 per centum of the total property and assets of the entity; or".

(b) Section 1902(a)(35) of such Act is amended to read as follows:

"(35) provide that any disclosing entity (as defined in section 1124(a)(2)) receiving payments under such plan complies with the requirements of section 1124;".

EXCLUSION OF HEALTH CARE PROFESSIONALS CONVICTED OF MEDICARE- OR MEDICAID-RELATED CRIMES

SEC. 913. (a) Part A of title XI of the Social Security Act is amended by inserting after section 1127 the following new section:

"EXCLUSION OF CERTAIN INDIVIDUALS CONVICTED OF MEDICARE- OR MEDICAID-RELATED CRIMES

"SEC. 1128. (a) Whenever the Secretary determines that a physician or other individual has been convicted (on or after October 25, 1977, or within such period prior to that date as the Secretary shall specify in regulations) of a criminal offense related to such individual's participation in the delivery of medical care or services under title XVIII, XIX, or XX, the Secretary—

"(1) shall bar from participation in the program under title XVIII, for such period as he may deem appropriate, each such individual otherwise eligible to participate in such program;

"(2)(A) shall promptly notify each appropriate State agency administering or supervising the administration of a State plan approved under title XIX or title XX, of the fact and circumstances of such determination, and (except as provided in subparagraph (B)) require each such agency to bar such individual from participation in such program for such period as he shall specify, which in the case of an individual specified in para-

graph (1) shall be the period established pursuant to paragraph (1);

"(B) may waive the requirement under subparagraph (A) to bar an individual from participation in a State plan program under title XIX or title XX, where he receives and approves a request for such a waiver with respect to that individual from the State agency administering or supervising the administration of such plan; and

"(3) shall promptly notify the appropriate State or local agency or authority having responsibility for the licensing or certification of such individual of the fact and circumstances of such determination, request that appropriate investigations be made and sanctions invoked in accordance with applicable State law and policy, and request that such State or local agency or authority keep the Secretary and the Inspector General of the Department of Health and Human Services fully and currently informed with respect to any actions taken in response to such request.

"(b) A determination made by the Secretary under this section shall be effective at such time and upon such reasonable notice to the public and to the person furnishing the services involved as may be specified in regulations. Such determination shall be effective with respect to services furnished to an individual on or after the effective date of such determination (except that in the case of inpatient hospital services, post-hospital extended care services, and home health services furnished under title XVIII, such determination shall be effective in the manner provided in paragraphs (3) and (4) of section 1866(b) with respect to terminations of agreements), and shall remain in effect until the Secretary finds and gives reasonable notice to the public that the basis for such determination has been removed and that there is reasonable assurance that it will not recur.

"(c) Any person who is the subject of an adverse determination made by the Secretary under subsection (a) shall be entitled to reasonable notice and opportunity for a hearing thereon by the Secretary to the same extent as is provided in section 205(b), and to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g).".

(b) Section 1862(e) of such Act is amended to read as follows:

"(e) No payment may be made under this title with respect to any item or service furnished by a physician or other individual during the period when he is barred pursuant to section 1128 from participation in the program under this title.".

(c) Section 1902(a)(39) of such Act is amended to read as follows:

"(39) provide that the State agency shall bar any specified individual from participation in the program under the State plan for the period specified by the Secretary, when required by him to do so pursuant to section 1128, and provide that no payment may be made under the plan with respect to any item or service furnished by such individual during such period;".

(d) Section 1902(g) of such Act is repealed.

(e) Section 2003(d)(1) of such Act is amended—

(1) by striking out "and" at the end of subparagraph (I),

(2) by striking out the period at the end of subparagraph (J) and inserting in lieu thereof "; and", and

(3) by inserting after subparagraph (J) the following new subparagraph:

"(K) provides that the State will bar any specified individual from particpation in the program for the period specified by the Secretary when required by him to do so pursuant to section 1128, and provides that no payment may be made under the program with respect to any item or service furnished by such individual during such period.".

COORDINATED AUDITS UNDER THE SOCIAL SECURITY ACT

SEC. 914. (a) Title XI of the Social Security Act is amended by inserting after section 1128 (added by section 913(a) of this title the following new section:

"COORDINATED AUDITS

SEC. 1129. (a) If an entity provides services reimbursable on a cost-related basis under title V or XIX, as well as services reimbursable on such a basis under title XVIII, the Secretary shall require, as a condition for payment to any State under title V or XIX with respect to administrative costs incurred in the performance of audits of the books, accounts, and records of that entity, that these audits be coordinated through common audit procedures with audits performed with respect to the entity for purposes of title XVIII. The Secretary shall specify by regulation such methods as he finds feasible and equitable for the apportionment of the cost of coordinated audits between the program established under title V or XIX and the program established under title XVIII. Where the Secretary finds that a State has declined to participate in such a common audit with respect to title V or XIX, he shall reduce the payments otherwise due such State under such title by an amount which he estimates to be in excess of the amount that would have been apportioned to the State under the title (for the expenses of the Sate incurred in the common audity) if it had participated in the common audit.

"(b)(1) In the case of entities which have audits coordinated under subsection (a), the Secretary shall establish one or more projects to demonstrate the feasibility of creating a single coordinated appeal hearing to adjudicate those administrative cost items which are determined under such a coordinated audit and which such entities dispute and appeal.

"(2) In the case of a demonstration project under this subsection, the Secretary may waive such requirements of title V, XVIII, or XIX as would prevent carrying out the project or would require duplicative activity or otherwise create unnecessary administrative burdens in carrying out the project.

"(3) The Secretary shall report to Congress not later than December 31, 1982, with respect to demonstration projects conducted under this subsection, including the reaction of the entities involved and estimates of any savings effected through reduction of duplication of appeal hearings, and shall include in such report recommendations for such legislation as the Secretary deems appropriate to insure the maximum feasible coordination of such appeal hearings.

"(4) The Secretary shall also provide for the review of the feasibility of establishing a single coordinated process for the collection of overpayments established in a coordinated audit under subsection (a). The Secretary shall report to Congress not later than December 31, 1981, on such review and on such recommendations for changes in legislation as the Secretary deems appropriate.".

(b)(1) Section 1902(a) of such Act is amended—

(A) by striking out "and" at the end of paragraph (40);

(B) by striking out the period at the end of paragraph (41) and inserting in lieu thereof "; and"; and

(C) by inserting after paragraph (41) the following new paragraph:

"(42) provide (A) that the records of any entity participating in the plan and providing services reimbursable on a cost-related basis will be audited as the Secretary determines to be necessary to insure that proper payments are made under the plan, (B) that such audits, for such entities also providing services under title XVIII, will be coordinated and conducted jointly (to such extent and in such manner as the Secretary shall prescribe) with audits conducted for purposes of such part, and (C) for payment of such proportion of costs of each such common audit as is determined under methods specified by the Secretary under section 1129(a).".

(2)(A) The amendments made by paragraph (1) shall (except as provided under subparagraph (B)) apply to medical assistance provided, under a State plan approved under title XIX of the Social Security Act, on and after the first day of the first calendar quarter beginning more than 30 days after the date of the enactment of this Act.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by paragraph (1), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

(c)(1) Section 505(a) of such Act is amended—

(A) by striking out "and" at the end of paragraph (14);

(B) by striking out the period at the end of paragraph (15) and inserting in lieu thereof "; and"; and

(C) by inserting after paragraph (15) the following new paragraph:

"(16) provides (A) that the records of any entity participating in the plan and providing services reimbursable on a cost-related basis will be audited as the Secretary determines to be necessary to insure that proper payments are made under the plan, (B) that such audits, for entities also providing services under title XVIII, will be coordinated and conducted jointly (to such extent and in such manner as the Secretary shall prescribe) with audits conducted for purposes of such part, and (C) for payment of such proportion of costs of each such common audit

as is determined under methods specified by the Secretary under section 1129(a).".

(2) The amendments made by paragraph (1) shall apply to services provided, under a State plan approved under title V of the Social Security Act, on and after the first day of the first calendar quarter beginning more than 30 days after the date of the enactment of this Act.

(d) The Secretary shall report to the Congress, not later than December 31, 1981, on actions the Secretary has taken (1) to coordinate the conduct of institutional audits and inspections which are required under the programs funded under title V, XVIII, or XIX of the Social Security Act, and (2) to coordinate such audits and inspections with those conducted by other cost payers, and he shall include in such report recommendations for such legislation as he deems appropriate to assure the maximum feasible coordination of such institutional audits and inspections.

LIFE SAFETY CODE REQUIREMENTS

SEC. 915. (a) Section 1861(j)(13) of the Social Security Act is amended by striking out "the Life Safety Code of the National Fire Protection Association (23d edition, 1973)" and inserting in lieu thereof "such edition (as specified by the Secretary in regulations) of the Life Safety Code of the National Fire Protection Association".

(b) Any institution (or part of an institution) which complied with the requirements of section 1861(j)(13) of the Social Security Act on the day before the date of the enactment of this Act shall, so long as such compliance is maintained (either by meeting the applicable provisions of the Life Safety Code (21st edition, 1967, or 23d edition, 1973), with or without waivers of specific provisions, or by meeting the applicable provisions of a fire and safety code imposed by State law as provided for in such section 1861(j)(13), be considered (for purposes of titles XVIII or XIX of such Act) to be in compliance with the requirements of such section 1861(j)(13), as it is amended by subsection (a) of this section.

ALTERNATIVE TO DECERTIFICATION OF LONG-TERM CARE FACILITIES OUT OF COMPLIANCE WITH CONDITIONS OF PARTICIPATION; LOOK BEHIND AUTHORITY

SEC. 916. (a) Section 1866 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(f)(1) Where the Secretary determines that a skilled nursing facility which has filed an agreement pursuant to subsection (a)(1) or which has been certified for participation in a plan approved under title XIX no longer substantially meets the provisions of section 1861(j), and further determines that the facility's deficiencies—

"(A) immediately jeopardize the health and safety of its patients, the Secretary shall provide for the termination of the agreement or of the certification of the facility and shall provide, or

"(B) do not immediately jeopardize the health and safety of its patients, the Secretary may, in lieu of terminating the agreement or certification of the facility, provide

that no payment shall be made under this title (and order a State agency established or designated pursuant to section 1902(a)(5) of this Act to administer or supervise the administration of the State plan under title XIX of this Act to deny payment under such title XIX) with respect to any individual admitted to such facility after a date specified by him.

"(2) The Secretary shall not make such a decision with respect to a facility until such facility has had a reasonable opportunity, following the initial determination that it no longer substantially meets the provisions of section 1861(j), to correct its deficiencies, and, following this period, has been given reasonable notice and opportunity for a hearing.

"(3) The Secretary's decision to deny payment may be made effective only after such notice to the public and to the facility as may be prescribed in regulations, and its effectiveness shall terminate (A) when the Secretary finds that the facility is in substantial compliance (or is making good faith efforts to achieve substantial compliance) with the provisions of section 1861(j), or (B) in the case described in paragraph (1)(B), with the end of the eleventh month following the month such decision is made effective, whichever occurs first. If a facility to which clause (B) of the previous sentence applies still fails to substantially meet the provisions of section 1861(j) on the date specified in such clause, the Secretary shall terminate such facility's agreement or provide for termination of such facility's certification, notwithstanding the provisions of paragraph (2) of subsection (b), effective with the first day of the first month following the month specified in such clause.".

(b)(1)(A) Section 1902 of such Act is amended by adding after subsection (h) (added by section 902(b)(2) of this title) the following new subsection:

"(i)(1) In addition to any other authority under State law, where a State determines that a skilled nursing facility or intermediate care facility which is certified for participation under its plan no longer substantially meets the provisions of section 1861(j) or section 1905(c), respectively, and further determines that the facility's deficiencies—

> *"(A) immediately jeopardize the health and safety of its patients, the State shall provide for the termination of the facility's certification for participation under the plan and may provide, or*
>
> *"(B) do not immediately jeopardize the health and safety of its patients, the State may, in lieu of providing for terminating the facility's certification for participation under the plan, provide*

that no payment will be made under the State plan with respect to any individual admitted to such facility after a date specified by the State.

"(2) The State shall not make such a decision with respect to a facility until the facility has had a reasonable opportunity, following the initial determination that it no longer substantially meets the provisions of section 1861(j) or section 1905(c) (as the case may be), to correct its deficiencies, and, following this period, has been given reasonable notice and opportunity for a hearing.

"(3) The State's decision to deny payment may be made effective only after such notice to the public and to the facility as may be

provided for by the State, and its effectiveness shall terminate (A) when the State finds that the facility is in substantial compliance (or is making good faith efforts to achieve substantial compliance) with the provisions of section 1861(j) or section 1905(c) (as the case may be), or (B) in the case described in paragraph (1)(B), with the end of the eleventh month following the month such decision is made effective, whichever occurs first. If a facility to which clause (B) of the previous sentence applies still fails to substantially meet the provisions of the respective section on the date specified in such clause, the State shall terminate such facility's certification for participation under the plan effective with the first day of the first month following the month specified in such clause.".

(B) Such section is further amended by inserting before the semicolon at the end of subsection (a)(33)(B) the following: ", except that, if the Secretary has cause to question the adequacy of such determinations, the Secretary is authorized to validate State determinations and, on that basis, make independent and binding determinations concerning the extent to which individual institutions and agencies meet the requirements for participation".

(2) Section 1910 of such Act is amended by adding at the end thereof the following new subsection:

"(c)(1) The Secretary may cancel approval of any skilled nursing or intermediate care facility at any time if he finds on the basis of a determination made by him as provided in section 1902(a)(33)(B) that a facility fails to meet the requirements contained in section 1902(a)(28) or section 1905(c), or if he finds grounds for termination of his agreement with the facility pursuant to section 1866(b). In that event the Secretary shall notify the State agency and the skilled nursing facility or intermediate care facility that approval of eligibility of the facility to particpate in the programs established by this title and title XVIII shall be terminated at a time specified by the Secretary. The approval of eligibility of any such facility to participate in such programs may not be reinstated unless the Secretary finds that the reason for termination has been removed and there is reasonable assurance that it will not recur.

"(2) Any skilled nursing facility or intermediate care facility which is dissatisfied with a determination by the Secretary that it no longer qualifies as a skilled nursing facility or intermediate care facility for purposes of this title, shall be entitled to a hearing by the Secretary to the same extent as is provided in section 205(b) and to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g). Any agreement between such facility and the State agency shall remain in effect until the period for filing a request for a hearing has expired or, if a request has been filed, until a decision has been made by the Secretary; except that the agreement shall not be extended if the Secretary makes a written determination, specifying the reasons therefor, that the continuation of provider status constitutes an immediate and serious threat to the health and safety of patients, and the Secretary certifies that the facility has been notified of its deficiencies and has failed to correct them.".

CRIMINAL STANDARDS FOR CERTAIN MEDICARE- AND MEDICAID-RELATED CRIMES

SEC. 917. Paragraphs (1) and (2) of section 1877(b) of the Social Security Act and of section 1909(b) of such Act are each amended by inserting "knowingly and willfully" after "Whoever".

REIMBURSEMENT OF CLINICAL LABORATORIES

SEC. 918. (a)(1) Section 1842 of the Social Security Act is amended by inserting at the end the following new subsection:

"(h) If a physician's bill or request for payment for a physician's services includes a charge to a patient for a laboratory test for which payment may be made under this part, the amount payable with respect to the test shall be determined as follows:

"(1) If the bill or request for payment indicates that the physician who submitted the bill or for whose services the request for payment was made personally performed or supervised the performance of the test or that another physician with whom the physician shares his practice personally performed or supervised the test, the payment shall be the reasonable charge for the test (less the applicable deductible and coinsurance amounts).

"(2) If the bill or request for payment indicates that the test was performed by a laboratory, identifies the laboratory, and indicates the amount the laboratory charged the physician who submitted the bill or for whose services the request for payment was made, payment for the test shall be the lower of—

"(A) the laboratory's reasonable charge to individuals enrolled under this part for the test, or

"(B) the amount the laboratory charged the physician for the test,

plus a nominal fee (where the physician bills for such a service) to cover the physician's costs in collecting and handling the sample on which the test was performed (less the applicable deductible and coinsurance amounts).

"(3) If the bill or request for payment (A) does not indicate who performed the test, or (B) indicates that the test was performed by a laboratory but does not identify the laboratory or include the amount charged by the laboratory, payment shall be the lowest charged at which the carrier estimates the test could have been secured by a physician from a laboratory serving the locality (less the applicable deductible and coinsurance amounts).".

(2) The amendment made by paragraph (1) shall apply to bills submitted and requests for payment made on or after such date (not later than April 1, 1981) as the Secretary of Health and Human Services prescribes by a notice published in the Federal Register.

(3) Not later than 24 months after the effective date specified in paragraph (2), the Secretary shall report to the Congress—

(A) the proportion of bills and requests for payment submitted (during the 18-month period beginning on such effective date) under title XVIII of the Social Security Act for laboratory tests which did not identify who performed the tests,

(B) the proportion of bills and requests for payment submitted during such period for laboratory tests with respect to which the amount paid under such title was less than the amount that would otherwise have been payable in the absence of section 1842(h) of such Act,

(C) with respect to requests for payment described in subparagraph (B) which were submitted by patients, the average additional cost per laboratory test to patients resulting from reductions in payment that would otherwise have been made for such tests in the absence of such section 1842(h), and

(D) with respect to bills described in subparagraph (B) which were submitted by physicians, the average reduction in payment per laboratory test to physicians resulting from the application of such section 1842(h).

(4) Section 1833(a)(1)(D) of the Social Security Act is amended by striking out "subsection (g)" and inserting in lieu thereof "subsection (h)".

(b)(1) Section 1902(a) of the Social Security Act (as amended by section 914(b)(1) of this Act) is further amended—

(A) by striking out "and" at the end of paragraph (41);

(B) by striking out the period at the end of paragraph (42) and inserting in lieu thereof "; and"; and

(C) by adding after paragraph (42) the following new paragraph:

"(43) if the State plan makes provision for payment to a physician for laboratory services the performance of which such physician (or any other physician with whom he shares his practice) did not personally perform or supervise, include provision to insure that payment under the State plan for such laboratory services not exceed the payment authorized for such services by section 1842(h).".

(2)(A) The amendments made by paragraph (1) shall (except as otherwise provided in subparagraph (B)) apply to medical assistance provided, under a State plan approved under title XIX of the Social Security Act, on and after the first day of the first calendar quarter that begins more than six months after the date of the enactment of this Act.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by paragraph (1), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

STUDY OF NEED FOR DUAL PARTICIPATION OF SKILLED NURSING FACILITIES

SEC. 919. (a)(1) The Secretary of Health and Human Services shall conduct a study of the availability and need for skilled nursing facility services covered under part A of title XVIII of the Social Secu-

rity Act and under State plans approved under title XIX of such Act.

(2) Such study shall include—

(A) an investigation of the desirability and feasibility of imposing a requirement that skilled nursing facilities (i) which furnish services to patients covered under State plans approved under title XIX of the Social Security Act also furnish such services to patients covered under part A of title XVIII of such Act, and (ii) which furnish services to patients covered under such title XVIII also furnish such services to patients covered under such State plans,

(B) an evaluation of the impact of existing laws and regulations on skilled nursing facilities and individuals covered under such State plans and under part A of such title XVIII, and an evaluation of the extent to which existing laws and regulations encourage skilled nursing facilities to accept only title XVIII beneficiaries or title XIX recipients, and

(C) an investigation of possible changes in regulations and legislation which would result in encouraging a greater availability of skilled nursing facility services.

(3) In developing such study, the Secretary shall consult with professional organizations, health experts, private insurers, nursing home providers, and consumers of skilled nursing facility services.

(b) Within one year after the date of the enactment of this Act, the Secretary shall complete such study and shall submit to the Congress a full and complete report thereon, together with recommendations with respect to the matters covered by such study (including any recommendations for administrative or legislative changes).

Subpart III—Provisions Relating to Professional Standards Review Organizations (PSRO's)

EXPANDED MEMBERSHIP OF PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

SEC. 921. Section 1152(b)(1)(A) of the Social Security Act is amended—

(1) by inserting "and, if the organization so elects, of other health care practitioners engaged in the practice of their professions in such area who hold independent hospital admitting privileges," after the comma at the end of clause (ii); and

(2) by inserting "(except as otherwise provided under section 1155(c))" after "does not" in clause (vi).

REGISTERED NURSE AND DENTIST MEMBERSHIP ON STATEWIDE COUNCIL ADVISORY GROUP

SEC. 922. (a) Section 1162(e)(1) of the Social Security Act is amended by inserting "(including at least one registered professional nurse and at least one doctor of dental surgery or of dental medicine)" after "representatives."

(b) The amendment made by this section shall become effective 180 days after the date of the enactment of this Act.

NONPHYSICIAN MEMBERSHIP ON NATIONAL PROFESSIONAL STANDARDS REVIEW COUNCIL

SEC. 923. (a) Section 1163(a)(1) of the Social Security Act is amended by inserting "one doctor of dental surgery or of dental medicine, one registered professional nurse, and one other health practitioner (other than a physician as defined in section 1861(r)(1)), " after "physicians, ".

(b) Section 1163(a)(2) of such Act is amended by striking out "four members" and inserting in lieu thereof "five members".

(c) Section 1163(a)(3) of such Act is amended by inserting "physician" before "members".

(d) Section 1163(b) of such Act is amended by striking out "Members" and inserting in lieu thereof "Physician members".

(e) Section 1173 of such Act is amended by striking out "(except sections 1155(c) and 1163)" and inserting in lieu thereof "(except section 1155(c))".

(f) The amendments made by this section shall become effective 180 days after the date of the enactment of this Act.

REQUIRED ACTIVITIES OF PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

SEC. 924. (a)(1) Subsection (b) of section 1154 of the Social Security Act is amended—

(A) by striking out "in addition to review of health care services provided by or in institutions, only such of the duties and functions required under this part of Professional Standards Review Organization as he determines such organization to be capable of performing" in the first sentence and inserting in lieu thereof "in addition to review of health care services (other than ancillary, ambulatory care, and long-term care services) provided by or in hospitals and to review of alcohol detoxification facility services, only such of the duties and functions as he requires the organization to perform under subsection (f)(2) or subsection (f)(4) and which the organization is capable of performing"; and

(B) by striking out "only if the Secretary finds that it is substantially carrying out in a satisfactory manner, the activities and functions required of Professional Standards Review Organizations under this part with respect to the review of health care services provided by or in institutions (including ancillary services) and, in addition, review of such other health care services as the Secretary may require" in the second sentence and inserting in lieu thereof "only if the Secretary finds that it is substantially carrying out in a satisfactory manner the activities and functions required of that Professional Standards Review Organization under this part".

(2) Subsection (c) of such section is amended by inserting "of that organization" after "required under this part".

(3) Such section if further amended by adding at the end the following new subsection:

"(f)(1) The Secretary shall establish a program (hereinafter in this subsection referred to as the 'program') for the evaluation of the

cost-effectiveness of review of particular health care services by Professional Standards Review Organizations.

"(2) In order to demonstrate the cost-effectiveness of requiring review of particular health care services before such review is generally required, the program shall be designed in a manner so that the Secretary will require particular Professional Standards Review Organizations, chosen by a statistically valid method that will permit a valid evaluation of the cost-effectiveness of such review, to review particular health care services.

"(3) The program shall provide for the evaluation of cost-effectiveness of the review of particular health care services under the program, particularly in comparison with areas in which such review was not required or performed.

"(4) Based upon such evaluation, or upon an evaluation of comparable statistical validity, and a finding that review of particular health care services is cost-effective or yields other significant benefits, the Secretary shall such particular health care services which Professional Standards Review Organizations (either generally or under such conditions and circumstances as the Secretary may specify) have the duty and function of reviewing under this part.

"(5) For purposes of this subsection, the term 'particular health care services' does not include health care service (other than ancillary, ambulatory care, and long-term care services) provided by or in hospitals or alcohol detoxification facility services.".

(b) Section 1155(a) of such Act is amended—

(1) by striking out "at the earliest date practicable" in paragraph (1) and inserting in lieu thereof "to the extent and at the time specified by the Secretary under section 1154(f)";

(2) by inserting ", consistent with section 1154(f)," in paragraph (7)(A) after "only"; and

(3) by inserting "(consistent with section 1154(f))" in paragraph (7)(B) after "to the extent".

(c) Subsection (g) of section 1155 of such Act is repealed.

(d) Section 1155 of such Act is amended by adding at the end thereof the following new subsection:

"(h) If the Secretary has designated an organization (other than under section 1154) as a Professional Standards Review Organization, but that organization has not assumed responsibility for the review of particular activities in its area included in subsection (a)(1), the Secretary may designate another qualified Professional Standards Review Organization (in reasonable proximity to the providers and practitioners whose services are to be reviewed) to assume the responsibility for the review of some or all of those particular activities.".

EFFICIENCY IN DELEGATED REVIEW

SEC. 925. Section 1155(e) of the Social Security Act is amended by striking out "effectively and in timely fashion" and inserting in lieu thereof "effectively, efficiently, and in timely fashion".

REVIEW OF ROUTINE HOSPITAL ADMISSION SERVICES AND PREOPERATIVE HOSPITAL STAYS BY PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

SEC. 926. Section 1155(a)(2) of the Social Security Act is amended to read as follows:

"(2) Each Professional Standards Review Organization shall have the authority to determine, in advance, in the case of—

"(A) any elective admission to a hospital or other health care facility (including admissions occurring on weekends), and

"(B) any routine diagnostic services furnished in connection with such an admission,

whether such service, if provided, or if provided by a particular health care practitioner or by a particular hospital or other health care facility, organization, or agency, would meet the criteria specified in subparagraphs (A) and (C) of paragraph (1). Each such Organization may be directed by the Secretary to excercise such authority where the Secretary finds (consistent with section 1154(f)) that such determinations can be made on a timely basis by the Organization and appropriate procedures will be applied to assure prompt notification of such determinations to providers, physicians, practitioners, and persons on whose behalf payment may be made under this Act for services and items.".

CONSULTATION BY PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS WITH HEALTH CARE PRACTITIONERS

SEC. 927. (a) Section 1155(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(8) Each Professional Standards Review Organization shall consult (with such frequency and in such manner as may be prescribed by the Secretary) with representatives of health care practitioners (other than physicians described in section 1861(r)(1)) and of institutional and noninstitutional providers of health care services, in relation to the Professional Standards Review Organization's responsibility for the review under paragraph (1) of the professional activities of such practitioners and providers.".

(b) Section 1162(e) of such Act is amended by striking out the first parenthetical material in paragraph (1) and the parenthetical material in paragraph (2).

(c) The amendments made by this section shall become effective 180 days after the date of the enactment of this Act.

RESPONSE OF PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS TO FREEDOM OF INFORMATION ACT REQUESTS

SEC. 928. No Professional Standards Review Organization designated (conditionally or otherwise) under part B of title XI of the Social Security Act shall be required to make available any records pursuant to a request made under section 552 of title 5, United States Code, until the later of (1) one year after the date of entry of a final court order requiring that such records be made available, or (2) the last date of the Congress during which the court order was entered.

STUDY OF PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS NORMS, STANDARDS, AND CRITERIA

SEC. 929. The Secretary of Health and Human Services shall, in consultation with the National Professional Standards Review Council, conduct a nationwide study of the differences in medical criteria and length-of-stay norms utilized by Professional Standards Review Organizations in the various regions of the country. The study shall include an assessment of the rationale that contributes to these regional differences. The Secretary shall report the findings and conclusions made with respect to the study to the Congress within one year after the date of the enactment of this Act.

PART B—PROVISIONS, RELATING TO MEDICARE

Subpart I—Changes in Services or Benefits

HOME HEALTH SERVICES

SEC. 930. (a) Section 1811 of the Social Security Act is amended by striking out "and related post-hospital services" and inserting in lieu thereof ", related post-hospital, and home health services".

(b) Section 1812(a)(3) of such Act is amended to read as follows: "(3) home health services.".

(c) Section 1812(d) of such Act is repealed.

(d) Section 1812(e) of such Act is amended—

(1) by striking out "(b), (c), and (d)" and inserting in lieu thereof "(b) and (c)"; and

(2) by striking out "post-hospital extended care services, and post-hospital home health services" and inserting in lieu therof "and post-hospital extended care services".

(e) Sections 1814(a) and 1835(a) of such Act are amended by adding the following new sentence at the end of each such section: "With respect to the physician certification required by paragraph (2) for home health services furnished to any individual by a home health agency (other than an agency which is a governmental entity) and with respect to the establishment and review of a plan for such services, the Secretary shall prescribe regulations which shall become effective no later than July 1, 1981, and which prohibit a physician who has a significant ownership interest in, or a significant financial or contractural relationship with, such home health agency from performing such certification and from establishing or reviewing such plan.".

(f) Section 1814(a)(2)(D) of such Act is amended—

(1) by striking out "post-hospital home health services" and inserting in lieu thereof "home health services";

(2) by inserting ", occupational," after "or physical"; and

(3) by striking out ", for any of the conditions" and all that follows through "extended care services".

(g) Section 1832(a)(2)(A) of such Act is amended by striking out "for up to 100 visits during a calendar year".

(h) Section 1833(b) of such Act is amended—

(1) by striking out "and" at the end of clause (1) in the first sentence; and

(2) by inserting before the period at the end of the first sentence the following: ", (3) such deductible shall not apply with respect to home health services".

(i) Section 1834 of such Act is repealed.

(j) Section 1835(a)(2)(A) of such Act is amended by inserting ", occupational," after "or physical".

(k) Section 1861(e) of such Act is amended—

(1) by striking out "subsections (i) and (n)" in the material preceding paragraph (1) and inserting in lieu thereof "subsection (i)", and

(2) by striking out "subsections (i) and (n)" in the third sentence and inserting in lieu thereof "subsection (i)".

(l) Section 1861(m)(4) of such Act is amended by inserting the following before the semicolon: "who has successfully completed a training program approved by the Secretary".

(m) Section 1861(n) of such Act is repealed.

(n) Section 1861(o) of such Act is amended—

(1) by striking out "and" at the end of paragraph (5), by inserting "and" at the end of paragraph (6), and by adding the following new paragraph after paragraph (6):

"(7) meets such additional requirements (including conditions relating to bonding or establishing of escrow accounts as the Secretary finds necessary for the financial security of the program) as the Secretary finds necessary for the effective and efficient operation of the program;"; and

(2) by striking out "except that" the first place it appears in the material following paragraph (6) and all that follows through "regulations; and"

(o) Section 1816(e) of such Act is amended—

(1) by inserting "(subject to the provisions of paragraph (4))" after "the Secretary may" in paragraph (2); and

(2) by adding the following new paragraph at the end thereof:

"(4) Notwithstanding subsections (a) and (d) and paragraphs (1), (2), and (3) of this subsection, the Secretary shall designate regional agencies or organizations which have entered into an agreement with him under this section to perform functions under such agreement with respect to home health agencies (as defined in section 1861(o)) in the region, except that in assigning such agencies to such designated regional agencies or organizations the Secretary shall assign a home health agency which is a subdivision of a hospital (and such agency and hospital are affiliated or under common control) only if, after applying such criteria relating to administrative efficiency and effectiveness as he shall promulgate, he determines that such assignment would result in the more effective and efficient administration of this title.".

(p) Section 1861(v)(1) of such Act is amended by adding after subparagraph (G) (as added by section 902(a)(1) of this title) the following new subparagraph:

"(H) In determining such reasonable cost with respect to home health agencies, the Secretary may not include—

"(i) any costs incurred in connection with bonding or establishing an escrow account by any such agency as a result of the financial security requirement described in subsection (o)(7);

"(ii) in the case of home health agencies to which the financial security requirement described in subsection (o)(7) applies,

any costs attributed to interest charged such an agency in connection with amounts borrowed by the agency to repay overpayments made under this title to the agency, except that such costs may be included in reasonable cost if the Secretary determines that the agency was acting in good faith in borrowing the amounts;

"(iii) in the case of contracts entered into by a home health agency after the date of the enactment of this subparagraph for the purpose of having services furnished for or on behalf of such agency, any cost incurred by such agency pursuant to any such contract (I) which is entered into for a period exceeding five years, or (II) which determines the amount payable by the home health agency on the basis of a percentage of the agency's reimbursement or claim for reimbursement for services furnished by the agency; and

"(iv) in the case of contracts entered into by a home health agency before the date of the enactment of this subparagraph for the purpose of having services furnished for or on behalf of such agency, any cost incurred by such agency pursuant to any such contract, which determines the amount payable by the home health agency on the basis of a percentage of the agency's reimbursement or claim for reimbursement for services furnished by the agency, to the extent that such cost exceeds the reasonable value of the services furnished on behalf of such agency.".

(q) Section 226(c)(1) of such Act is amended—

(1) by striking out "and post-hospital home health services" and inserting in lieu thereof "and home health services"; and

(2) by striking out "or post-hospital home health services" in clause (B).

(r) Section 7(d)(1) of the Railroad Retirement Act of 1974 is amended by striking out "posthospital home health services" and inserting in lieu thereof "home health services".

(s)(1) the amendments made by this section shall become effective with respect to services furnished on or after July 1, 1981, except that the amendments made by subsections (n)(1) and (o) shall become effective on the date of the enactment of this Act.

(2) The Secretary of Health and Human Services shall take administrative action to assure that improvements, in accordance with the amendment made by subsection (n)(1), will be made not later than June 30, 1981.

ALCOHOL DETOXIFICATION FACILITY SERVICES

SEC. 931. (a) Section 1812 of the Social Security Act is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and", and by adding after paragraph (3) the following new paragraph:

"(4) alcohol detoxification facility services.".

(b) Section 1814(a)(2) of such Act is amended by striking out "or" at the end of subparagraph (D), by inserting "or" at the end of subparagraph (E), and by adding after subparagraph (E) the following new subparagraph:

"(F) in the case of alcohol detoxification facility services, such services are required on an inpatient basis (based upon an examination by such certifying physician made prior to initiation of alcohol detoxification);".

(c) Section 1861(u) of such Act is amended by inserting "detoxification facility," after "home health agency,".

(d) Section 1861 of such Act is further amended by adding after subsection (aa) the following new subsection:

"Alcohol Detoxification Facility Services

"(bb)(1) The term 'alcohol detoxification facility services' means services provided by a detoxification facility in order to reduce or eliminate the amount of alcohol in the body, but only to the extent that such services would be covered under subsection (b) if furnished as inpatient services by a hospital, or are physicians' services covered under subsection (s).

"(2) The term 'detoxification facility' means a public or voluntary community-based nonprofit facility, other than a hospital, which—

"(A) is engaged in furnishing to inpatients the services described in paragraph (1);

"(B) is accredited by the Joint Commission on the Accreditation of Hospitals as meeting the Accreditation Program for Psychiatric Facilities standards (1979 edition), or is found by the Secretary to meet such standards;

"(C) has arrangements with one or more hospitals, having agreements in effect under section 1866, for the referral and admission of patients requiring services not available at the facility; and

"(D) meets such other requirements as the Secretary may find necessary in the interest of the health and safety of individuals who are furnished services by the facility.".

(e) The amendments made by subsections (a) through (d) of this section shall become effective on April 1, 1981.

(f) The Secretary of Health and Human Services shall conduct a study and make recommendations, within 18 months after the date of the enactment of this Act, concerning the appropriateness of extending medicare coverage to drug detoxification, postdetoxification rehabilitation, and to outpatient detoxification and concerning incentives for the use of lower-cost detoxification facilities.

(g) Section 1155 of the Social Security Act is amended by adding after subsection (h) (added by section 924(d) of this title) the following new subsection:

"(i) Any Professional Standards Review Organization which has assumed responsibility under this section for review of inpatient hospital services in an area shall also assume responsibility in such area for review of detoxification facility services.".

(h) Section 1158 of such Act is amended—

(1) by striking out "section 1159 and subsection (d)" in subsection (a) and inserting in lieu thereof "subsections (d) and (e) of this section and in sections 1159, 1861(v)(1)(G), and 1902(h)", and

(2) by adding after subsection (d) the following new subsection:

"(e) Subsection (a) of this section shall not apply to a determination by a Professional Standards Review Organization under section 1155(a)(1)(C) that detoxification services provided or proposed to be provided in a hospital on an inpatient basis could be more economically provided in a detoxification facility.".

PREADMISSION DIAGNOSTIC TESTING

SEC. 932. (a)(1) Section 1833(a)(1) of the Social Security Act is amended—

(A) by striking out "and (E)" and inserting in lieu thereof "(E)", and

(B) by inserting the following after "section 1881," at the end of clause (E): "(F) with respect to expenses incurred for physicians' services (furnished by a physician who has an agreement in effect with the Secretary by which the physician agrees to accept an assignment described in section 1842(b)(3)(B)(ii) with respect to payment for all physicians' services which are preadmission diagnostic services furnished by the physician to individuals enrolled under this part) which are preadmission diagnostic services for which payment may be made under this part and which are furnished (i) in the outpatient department of a hospital within seven days of such individual's admission to the same hospital as an inpatient or, to the extent practicable as determined by regulations prescribed by the Secretary, to another hospital, or (ii) to the extent practicable as determined by regulations prescribed by the Secretary, in a physician's office within seven days of such individual's admission to a hospital as an inpatient, the amounts paid shall be equal to the reasonable charges for such services,".

(2) For amendment to section 1833(a) of the Social Security Act, with respect to the amount of payment for hospital outpatient preadmission diagnostic services, see section 942 of this title.

(b) The Secretary of Health and Human Services shall transmit to the Congress, no later than one year after the date of the enactment of this Act, a report describing the policy which has been developed and is being or will be implemented with respect to the amendments made by subsection (a)(1) of this section and by section 942 of this title as they concern expenses incurred for preadmission diagnostic testing furnished to an individual at a hospital within seven days of an individual's admission to another hospital.

COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY SERVICES

SEC. 933. (a) Section 1832(a)(2) of the Social Security Act is amended by striking out "and" at the end of subparagraph (C), by striking out the period at the end of subparagraph (D) and inserting in lieu thereof a semicolon, and by adding the following new subparagraph at the end thereof:

"(E) comprehensive outpatient rehabilitation facility services; and".

(b) Section 1835(a)(2) of such Act is amended by striking out the period at the end of subparagraph (D) and inserting in lieu thereof a semicolon, and by inserting the following new subparagraph after subparagraph (D):

"(E) in the case of comprehensive outpatient rehabilitation facility services, (i) such services are or were required because the individual needed skilled rehabilitation services, (ii) a plan for furnishing such services has been established and is periodically reviewed by a physician, and (iii) such services are or were furnished while the individual is or was under the care of a physician; and".

(c) Section 1861(u) of such Act is amended by inserting "comprehensive outpatient rehabilitation facility," immediately after "skilled nursing facility,".

(d) Section 1861(z) of such Act is amended by striking out "extended care facility," and inserting in lieu thereof "skilled nursing facility, comprehensive outpatient rehabilitation facility,".

(e) Section 1861 of such Act is amended by adding after subsection (bb) (added by section 931(d) of this title) the following new subsection:

"Comprehensive Outpatient Rehabilitation Facility Services

"(cc)(1) The term 'comprehensive outpatient rehabilitation facility services' means the following items and services furnished by a physician or other qualified professional personnel (as defined in regulations by the Secretary) to an individual who is an outpatient of a comprehensive outpatient rehabilitation facility under a plan (for furnishing such items and services to such individual) established and periodically reviewed by a physician—

"(A) physicians' services;

"(B) physical therapy, occupational therapy, speech pathology services, and respiratory therapy;

"(C) prosthetic and orthotic devices, including testing, fitting, or training in the use of prosthetic and orthotic devices;

"(D) social and psychological services;

"(E) nursing care provided by or under the supervision of a registered professional nurse;

"(F) drugs and biologicals which cannot, as determined in accordance with regulations, be self administered;

"(G) supplies, appliances, and equipment, including the purchase or rental of equipment; and

"(H) such other items and services as are medically necessary for the rehabilitation of the patient and are ordinarily furnished by comprehensive outpatient rehabilitation facilities,

excluding, however, any item or service if it would not be included under subsection (b) if furnished to an outpatient of a hospital.

"(2) The term 'comprehensive outpatient rehabilitation facility' means a facility which—

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"(A) is primarily engaged in providing (by or under the supervision of physicians) diagnostic, therapeutic, and restorative services to outpatients for the rehabilitation of injured, disabled, or sick persons;

"(B) provides at least the following comprehensive outpatient rehabilitation services: (i) physicians' services (rendered by physicians, as defined in section 1861(r)(1), who are available at the facility on a full- or part-time basis); (ii) physical therapy; and (iii) social or psychological services;

"(C) maintains clinical records on all patients;

"(D) has policies established by a group of professional personnel (associated with the facility), including one or more physicians defined in subsection (r)(1) to govern the comprehensive outpatient rehabilitation services it furnishes, and provides for the carrying out of such policies by a full- or part-time physician referred to in subparagraph (B)(i);

"(E) has a requirement that every patient must be under the care of a physician;

"(F) in the case of a facility in any State in which State or applicable local law provides for the licensing of facilities of this nature (i) is licensed pursuant to such law, or (ii) is approved by the agency of such State or locality, responsible for licensing facilities of this nature, as meeting the standard establishment for such licensing;

"(G) has in effect a utilization review plan in accordance with regulations prescribed by the Secretary;

"(H) has in effect an overall plan and budget that meets the requirements of subsection (z); and

"(I) meets such other conditions of participation as the Secretary may find necessary in the interest of the health and safety of individuals who are furnished services by such facility, including conditions concerning qualifications of personnel in these facilities.".

(f) Section 1863 of such Act is amended by striking out "and (o)(6)" in the first sentence and inserting in lieu thereof "(o)(6), and (cc)(2)(I)".

(g) Section 1864(a) of such Act is amended—

(1) by inserting "or a comprehensive outpatient rehabilitation facility as defined in section 1861(cc)(2)" after "section 1861(aa)(2)" in the first sentence; and

(2) by inserting "comprehensive outpatient rehabilitation facility," after "rural health clinic," each place it appears in the second and fifth sentences.

(h) The amendments made by this section shall become effective with respect to a comprehensive outpatient rehabilitation facility's first accounting period which begins on or after July 1, 1981.

OUTPATIENT SURGERY

SEC. 934. (a) Section 1832(a)(2) of the Social Security Act is amended by adding after subparagraph (E) (added by section 933(a) of this title) the following new subparagraph:

"(F) facility services furnished in connnection with surgical procedures specified by the Secretary—

"(i) pursuant to section 1833(i)(1)(A) and performed in an ambulatory surgical center (which meets health, safety, and other standards specified by the Secretary in regulations) if the center has an agreement in effect with the Secretary by which the center agrees to accept the amount determined under section 1833(i)(2)(A) as full payment for such services and to accept an assignment described in section 1842(b)(3)(B)(ii) with respect to payment for all such services furnished by the center to individuals enrolled under this part, or

"(ii) pursuant to section 1833(i)(1)(B) and performed by a physician, described in section 1861(r)(1), in his office, if the Secretary has determined that—

"(I) a Professional Standards Review Organization (designated, conditionally or otherwise, under part B of title XI of this Act) is willing, able, and has agreed to carry out a review (on a sample or other reasonable basis) of the physician's performing such procedures in the physician's office,

"(II) the particular physician involved has agreed to make available to such Organization such records as the Secretary determines to be necessary to carry out the review, and

"(III) the physician is authorized to perform the procedure in a hospital located in the area in which the office is located;

and if the physician agrees to accept the amount determined under section 1833(i)(2)(B) as full payment for such services and to accept an assignment described in section 1842(b)(3)(B)(ii) with respect to payment for all services (including all pre- and post-operative services) described in paragraphs (1) and (2)(A) of section 1861(s) and furnished in connection with such surgical procedure to individuals enrolled under this part.".

(b) Section 1833 of such Act is amended by adding at the end the following new subsection:

"(i)(1) The Secretary shall, in consultation with the National Professional Standards Review Council and appropriate medical organizations—

"(A) specify those surgical procedures which are appropriately (when considered in terms of the proper utilization of hospital inpatient facilities) performed on an inpatient basis in a hospital but which also can be performed safely on an ambulatory basis in an ambulatory surgical center (meeting the standards specified under section 1832(a)(2)(F)(i)) or hospital outpatient department, and

"(B) specify those surgical procedures which are appropriately (when considered in terms of the proper utilization of hospital inpatient facilities) performed on an inpatient basis in a hospital but which also can be performed safely on an ambulatory basis in a physician's office.

"(2)(A) The amount of payment to be made for facility services furnished in connection with a surgical procedure specified pursuant to paragraph (1)(A) and furnished to an individual in an ambulatory surgical center described in such paragraph shall be equal to a standard overhead amount established by the Secretary (with respect to each such procedure) on the basis of the Secretary's estimate of a fair fee which—

"(i) takes into account the costs incurred by such centers, or classes of centers, generally in providing services furnished in connection with the performance of such procedure, and

"(ii) takes such costs into account in such a manner as will assure that the performance of the procedure in such a center will result in substantially less amounts paid under this title

than would have been paid if the procedure had been performed on an inpatient basis in a hospital.

Each amount so established shall be reviewed periodically and may be adjusted by the Secretary, when appropriate, to take account of varying conditions in different areas.

"(B) The amount of payment to be made under this part for facility services furnished, in connection with a surgical procedure specified pursuant to paragraph (1)(B), in a physician's office shall be equal to a standard overhead amount established by the Secretary (with respect to each such procedure) on the basis of the Secretary's estimate of a fair fee which—

"(i) takes into account additional costs, not usually included in the professional fee, incurred by physicians in securing, maintaining, and staffing the facilities and ancillary services appropriate for the performance of such procedure in the physician's office, and

"(ii) takes such items into account in such a manner which will assure that the performance of such procedure in the physician's office will result in substantially less amounts paid under this title than would have been paid if the services had been furnished on an inpatient basis in a hospital.

Each amount so established shall be reviewed periodically and may be adjusted by the Secretary, when appropriate, to take account of varying conditions in different areas.

"(3) In the case of services (including all pre- and post-operative services) described in paragraphs (1) and (2)(A) of section 1861(s) and furnished in connection with surgical procedures (specified pursuant to paragraph (1) of this subsection) in a physician's office, an ambulatory surgical center described in such paragraph, or a hospital outpatient department, payment for such services shall be determined in accordance with subsection (a)(1)(G) if the physician accepts an assignment described in section 1842(b)(3)(B)(ii) with respect to payment for such services.

"(4)(A) The Secretary is authorized to provide by regulations that in the case of a surgical procedure, specified by the Secretary pursuant to paragraph (1)(A), performed in an ambulatory surgical center described in such paragraph, there shall be paid (in lieu of any amounts otherwise payable under this part) with respect to the facility services furnished by such center and with respect to all related services (including physicians' services, laboratory, X-ray, and diagnostic services) a single all-inclusive fee established pursuant to subparagraph (B), if all parties furnishing all such services agree to accept such fee (to be divided among the parties involved in such manner as they shall have previously agreed upon) as full payment for the services furnished.

"(B) In implementing this paragraph, the Secretary shall establish with respect to each surgical procedure specified pursuant to paragraph (1)(A) the amount of the all-inclusive fee for such procedure, taking into account such factors as may be appropriate. The amount so established with respect to any surgical procedure shall be reviewed periodically and may be adjusted by the Secretary, when appropriate, to take account of varying conditions in different areas.".

(c)(1) Section 1863 of the Social Security Act is amended by inserting "or by ambulatory surgical centers under section 1832(a)(2)(F)(i)," after "section 1861,".

(2) Section 1864(a) of such Act is amended—

(A) by inserting before the period at the end of the first sentence the following: ", or whether an ambulatory surgical center meets the standards specified under section 1832(a)(2)(F)(i)"; and

(B) by inserting "ambulatory surgical center," in the fifth sentence after "health care facility," each place it appears.

(d)(1) Section 1833(a)(1) of such Act, as amended by section 932(a)(1) of this title, is further amended by inserting after the comma at the end of clause (F) the following new clause: "and (G) with respect to expenses incurred for services described in subsection (i)(3) under the conditions specified in such subsection, the amounts paid shall be the reasonable charge for such services,".

(2) For an additional amendment to section 1833(a) of the Social Security Act with respect to the amount of payment for outpatient surgical procedures, see section 942 of this title.

(3) The first sentence of section 1833(b) of such Act, as amended by section 930(h) of this title, is further amended by adding before the period at the end the following: ", and (4) such total amount shall not include expenses incurred for services the amout of payment for which is determined under subsection (a)(1)(G) or under subsection (i)(2) or (i)(4)".

OUTPATIENT PHYSICAL THERAPY SERVICES

SEC. 935. (a) Section 1833(g) of the Social Security Act is amended by striking out "$100" and inserting in lieu thereof "$500".

(b) The amendment made by subsection (a) shall apply to expenses incurred in calendar years beginning with calendar year 1982.

DENTISTS' SERVICES

SEC. 936. (a) Clause (2) of the first sentence of section 1861(r) of the Social Security Act is amended to read as follows: "(2) a doctor of dental surgery or of dental medicine who is legally authorized to practice dentistry by the State in which he performs such function and who is acting within the scope of his license when he performs such functions,".

(b) Section 1814(a)(2)(E) of such Act is amended to read as follows:

"(E) in the case of inpatient hospital services in connection with the care, treatment, filling, removal, or replacement of teeth or structures directly supporting teeth, the individual, because of his underlying medical condition and clinical status or because of the severity of the dental procedure, require hospitalization in connection with the provision of such services; or".

(c) Section 1862(a)(12) of such Act is amended by inserting "or because of the severity of the dental procedure," after "clinical status".

(d) The amendments made by this section shall apply with respect to services provided on or after July 1, 1981.

OPTOMETRISTS' SERVICES

SEC. 937. (a) Clause (4) of the first sentence of section 1861(r) of the Social Security Act is amended by striking out "but only with respect to establishing the necessity for prosthetic lenses," and inserting in lieu thereof "but only with respect to services related to the condition of aphakia,".

(b) The Secretary of Health and Human Services shall submit to Congress by January 1, 1982, legislative recommendations with respect to reimbursement under title XVIII of the Social Security Act for services furnished by optometrists in connection with cataracts and such other services which they are legally authorized to perform.

(c) The amendment made by subsection (a) shall apply to services furnished on on after July 1, 1981.

ANTIGENS

SEC. 938. Section 1861(s)(2) of the Social Security Act is amended by striking out "and" at the end of subparagraph (E), by adding "and" after the semicolon at the end of subparagraph (F), and by inserting the following new subparagrpah after subparagraph (F):

> *"(G) antigens (subject to quantity limitations prescribed in regulations by the Secretary) prepared by a physician, as defined in section 1861(r)(1), for a particular patient, including antigens so prepared which are forwarded to another qualified person (including a rural health clinic) for administration to such patient, from time to time, by or under the supervision of another such physician;".*

(b) The amendments made by subsection (a) shall apply to services furnished on or after January 1, 1981.

TREATMENT OF PLANTAR WARTS

SEC. 939. (a) Section 1862(a)(13)(C) of the Social Security Act is amended by striking out ", warts,".

(b) The amendment made by subsection (a) shall apply with respect to services furnished on or after July 1, 1981.

Subpart II—Administrative Changes and Miscellaneous Provisions

PRESUMED COVERAGE PROVISIONS

SEC. 941. (a) Section 1814 of the Social Security Act is amended by striking out subsections (h) and (i) and by redesignating subsection (j) as subsection (h).

(b) Section 1814(c) of such Act is amended by striking out "subsection (j)" and inserting in lieu thereof "subsection (h)".

(c) The amendments made by this section shall take effect on January 1, 1981.

PAYMENT TO PROVIDERS OF SERVICES

SEC. 942. Section 1833(a) of such Act is amended by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

"(2) in the case of services described in section 1832(a)(2) (except those services described in subparagraphs (D), (E), and (F) of such section and in paragraph (5) of this subsection and unless otherwise specified in section 1831)—

"(A) with respect to home health services, the reasonable cost of such services, as determined under section 1861(v);

"(B) with respect to other services (except those described in subparagraph (C) of this paragraph), the reasonable costs of such services, as so determined, less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A), but in no case may the payment for such other services exceed 80 percent of such costs;

"(C) with respect to services described in the second sentence of section 1861(p), 80 percent of the reasonable charges for such services;

"(3) in the case of services described in subparagraphs (D) and (E) of section 1832(a)(2), the costs which are reasonable and related to the cost of furnishing such services or which are based on such other tests of reasonableness as the Secretary may prescribe in regulations, including those authorized under section 1861(v)(1)(A), less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A), but in no case may the payment for such services exceed 80 percent of such costs;

"(4) in the case of facility services described in subparagraph (F) of section 1832(a)(2), the applicable amount described in paragraph (2) of section 1833(i); and

"(5) in the case of preadmission diagnostic services described in section 1861(s)(2)(C) which are furnished to an individual by the outpatient department of a hospital within 7 days of such individual's admission to the same hospital as an inpatient or (to the extent practicable as determined by regulations prescribed by the Secretary) to another hospital, the reasonable costs for such services.".

LIMITATION ON PAYMENTS TO RADIOLOGISTS AND PATHOLOGISTS

SEC. 943. (a) Subsection (a)(1)(B) and (b)(2) of section 1833 of the Social Security Act are each amended by inserting after "pathology" the following: "who has in effect an agreement with the Secretary by which the physician agrees to accept an assignment (as provided for in section 1842(b)(3)(ii)) for all physicians' services furnished by him to hospital inpatients enrolled under this part".

(b) The amendments made by subsection (a) shall apply to services furnished after the sixth calendar month beginning after the date of the enactment of this Act.

PHYSICIAN TREATMENT PLAN FOR SPEECH PATHOLOGY

SEC. 944. (a) Section 1835(a)(2)(D)(ii) of the Social Security Act is amended by inserting after "established" the following: "by a physician or by the speech pathologist providing such services".

(b) The amendment made by subsection (a) shall apply to plans for furnishing services established on or after January 1, 1981.

REENROLLMENT AND OPEN ENROLLMENT IN PART B

SEC. 945. (a) Subsection (b) of section 1837 of the Social Security Act is repealed.

(b)(1) Subsection (e) of such section is amended to read as follows:

"(e) There shall be a general enrollment period which is any period after the period described in subsection (d).".

(2) Subsection (g)(3) of such section is amended by striking out "the earlier of the then current" and all that follows through "subsection (e) of this section)" and inserting in lieu thereof "the month in which the individual files an application establishing such entitlement".

(c)(1) Section 1838(a)(2)(E) of such Act is amended by striking out "the July 1" and inserting in lieu thereof "the first day of the third month".

(2) The second sentence of subsection (d) of section 1839 of such Act is amended by striking out "who enrolls for the second time) (2)" and all that follows through "in which he enrolled for the second time" and inserting in lieu therof "who reenrolls) (2) the months which elapsed between the date of termination of a previous coverage period and the month after the month in which he reenrolled".

(d) The amendments made by subsections (a), (b), and (c) shall apply to enrollments occurring on or after April 1, 1981.

(e) Section 1843 of the Social Security Act is amended by inserting "or during 1981," in subsections (a), (g)(1), and (h)(1) after "January 1, 1970," each place it appears.

DETERMINATION OF REASONABLE CHARGE

SEC. 946. (a) The third sentence of section 1842(b)(3) of the Social Security Act is amended by striking out "in which the bill is submitted or the request for payment is made" and inserting in lieu thereof "in which the service is rendered".

(b) Such section is further amended by striking out "and" at the end of subparagraph (D), by inserting "and" after the semicolon at the end of subparagraph (E), and by inserting after subparagraph (E) the following new subparagraph:

> *"(F) will take such action as may be necessary to assure that where payment under this part for a service rendered is on a charge basis, such payment shall be determined on the basis of the charge that is determined in accordance with this section on the basis of customary and prevailing charge levels in effect at the time the service was rendered or, in the case of services rendered more than 12 months before the year (ending on June 30) in which the bill is submitted or request for payment is made, on the basis of such levels in effect for the 12-month period preceding such year;"*

(c) The amendments made by subsections (a) and (b) shall become effective with respect to bills submitted or requests for payment made on or after July 1, 1981.

SHORTENED PART B TERMINATION PERIOD FOR CERTAIN INDIVIDUALS WHOSE PREMIUMS MEDICAID HAS CEASED TO PAY

SEC. 947. (a) Section 1843(e) of the Social Security Act is amended by adding at the end thereof the following: "The coverage period under this part of any such individual who (in the last month of his coverage period attributable to the State agreement or in any of the following six months) files notice that he no longer wishes to participate in the insurance program established by this part, shall terminate at the close of the month in which the notice if filed.".

(b) The second sentence of section 1838(b) of such Act is amended by inserting "(except as otherwise provided in section 1843(e))" after "shall".

(c) Section 1843(g)(2) of such Act is amended—

(1) by adding "and" at the end of clause (A);

(2) by striking out " , and" at the end of clause (B) and inserting in lieu thereof a period; and

(3) by striking out clause (C).

(d) The amendments made by this section apply to notices filed after the third calendar month beginning after the date of the enactment of this Act.

(e) The coverage period under part B of title XVIII of the Social Security Act of an individual whose coverage period attributable to a State agreement under section 1843 of such Act is terminated and who has filed notice before the end of the third calendar month beginning after the date of the enactment of this Act that he no longer wishes to participate in the insurance program established by part B of title XVIII shall terminate on the earlier of (1) the day specified in section 1838 without the amendments made by this section, or (2) (unless the individual files notice before the day specified in this clause that he wishes his coverage period to terminate as provided in clause (1)) the day on which his coverage period would terminate if the individual filed notice in the fourth calendar month beginning after the date of the enactment of this Act.

REIMBURSEMENT OF PHYSICIANS' SERVICES IN TEACHING HOSPITALS

SEC. 948. (a)(1) Paragraph (7) of section 1861(b) of the Social Security Act is amended to read as follows:

"(7) a physician where the hospital has a teaching program approved as specified in paragraph (6), if (A) the hospital elects to receive any payment due under this title for reasonable costs of such services, and (B) all physicians in such hospital agree not to bill charges for professional services rendered in such hospital to individuals covered under the insurance program established by this title.".

(2) Section 1832(a)(2)(B)(i)(II) of such Act is amended by striking out ", unless either clause (A) or (B) of paragraph (7) of such section is met" and inserting in lieu thereof "where the conditions specified in paragraph (7) of such section are met".

(b) Section 1842(b) of the Social Security Act is amended by adding at the end the following new paragraph:

"(6)(A) In the case of physicians' services furnished to a patient in a hospital with a teaching program approved as specified in section 1861(b)(6) but which does not meet the conditions described in sec-

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tion 1861(b)(7), the carrier shall not provide (except on the basis described in subparagraph (C)) for payment for such services under this part—

"(i) unless—

"(I) the physician renders sufficient personal and identifiable physicians' services to the patient to exercise full, personal control over the management of the portion of the case for which the payment is sought,

"(II) the services are of the same character as the services the physician furnishes to patients not entitled to benefits under this title, and

"(III) at least 25 percent of the hospital's patients (during a representative past period, as determined by the Secretary) who were not entitled to benefits under this title and who were furnished services described in subclauses (I) and (II) paid all or a substantial part of charges (other than nominal charges) imposed for such services; and

"(ii) to the extent that the amount of the payment exceeds the reasonable charge for the services (with the customary charge determined consistent with subparagraph (B)).

"(B) The customary charge for such services in a hospital shall be determined in accordance with regulations issued by the Secretary and taking into account the following factors:

"(i) In the case of a physician who has a substantial practice outside the teaching setting, the carrier shall take into account the amounts the physician charges for similar services in the physician's outside practice.

"(ii) In the case of a physician who does not have a practice described in clause (i), if the hospital, its physicians, or other appropriate billing entity has established one or more schedules of charges which are collected for medical and surgical services, the carrier shall base payment under this title on the greater of—

"(I) the charges (other than nominal charges) which are most frequently collected in full or substantial part with respect to patients who were not entitled to benefits under this title and who were furnished services described in subclauses (I) and (II) of subparagraph (A)(i), or

"(II) the mean of the charges (other than nominal charges) which were collected in full or substantial part with respect to such patients.

"(C) In the case of physicians' services furnished to a patient in a hospital with a teaching program approved as specified in section 1861(b)(6) but which does not meet the conditions described in section 1861(b)(7), if the conditions described in subclauses (I) and (II) of subparagraph (A)(i) are met and if the physician elects payment to be determined under this subparagraph, the carrier shall provide for payment for such services under this part on the basis of regulations of the Secretary governing reimbursement for the services of hospital-based physicians (and not on any other basis).".

(c)(1) The amendments made by subsection (a) shall apply with respect to cost accounting periods beginning on or after October 1, 1978. A hospital's election under section 1861(b)(7)(A) of the Social Security Act (as administered in accordance with section 15 of Public Law 93-233) as of September 30, 1978, shall constitute such

hospital's election under such section (as amended by subsection (a)(1)) on and after October 1, 1978, until otherwise provided by the hospital.

(2) The amendment made by subsection (b) shall apply with respect to cost accounting periods beginning on or after January 1, 1981.

FLEXIBILITY IN APPLICATION OF STANDARDS TO RURAL HOSPITALS

SEC. 949. Section 1861(e) of the Social Security Act is amended by adding the following new sentence at the end thereof: "The term 'hospital' also includes a facility of fifty beds or less which is located in an area determined by the Secretary to meet the definition relating to a rural area described in suparagraph (A) of paragraph (5) of this subsection and which meets the other requirements of this subsection, except that—

"(A) with respect to the requirements for nursing services applicable after December 31, 1978, such requirements shall provide for temporary waiver of the requirements, for such period as the Secretary deems appropriate, where (i) the facility's failure to fully comply with the requirements is attributable to a temporary shortage of qualified nursing personnel in the area in which the facility is located, (ii) a registered professional nurse is present on the premises to render or supervise the nursing service provided during at least the regular daytime shift, and (iii) the Secretary determines that the employment of such nursing personnel as are available to the facility during such temporary period will not adversely affect the health and safety of patients;

"(B) with respect to the health and safety requirements promulgated under paragraph (9), such requirements shall be applied by the Secretary to a facility herein defined in such manner as to assure that personnel requirements take into account the availability of technical personnel and the educational opportunities for technical personnel in the area in which such facilitity is located, and the scope of services rendered by such facility; and the Secretary, by regulations, shall provide for the continued participation of such a facility where such personnel requirements are not fully met, for such period as the Secretary determines that (i) the facility is making good faith efforts to fully comply with the personnel requirements, (ii) the employment by the facility of such personnel as are available to the facility will not adversely affect the health and safety of patients; and (iii) if the Secretary has determined that because of the facility's waiver under this subparagraph the facility should limit its scope of services in order not to adversely affect the health and safety of the facility's patients, the facility is so limiting the scope of services it provides; and

"(C) with respect to the fire and safety requirements promulgated under paragraph (9), the Secretary may (i), waive, for such period as he deems appropriate, specific provisions of such requirements which if rigidly applied would result in unreasonable hardship for such a facility and which, if not applied, would not jeopardize the health and safety of patients, and (ii) may accept a facility's compliance with all applicable State

codes relating to fire and safety in lieu of compliance with the fire and safety requirements promulgated under paragraph (9), if he determines that such State has in effect fire and safety codes, imposed by State law, which adequatley protect patients.".

HOSPITAL TRANSFER REQUIREMENT FOR SKILLED NURSING FACILITY COVERAGE

SEC. 950. Section 1861(i) of the Social Security Act is amended—

(1) by striking out "14 days" each place it appears and inserting in lieu thereof "30 days"; and

(2) by striking out ", or (B) within 28 days" and all that follows through "he resides, or (C)" and inserting in lieu thereof ", or (B)".

CERTIFICATION AND UTILIZATION REVIEW BY PODIATRISTS

SEC. 951. (a) Section 1861(r)(3) of the Social Security Act is amended to read as follows: "(3) a doctor of podiatric medicine for the purposes of subsection (s) of this section but only with respect to functions which he is legally authorized to perform as such by the State in which he performs them; and for the purposes of subsections (k) and (m) of this section and sections 1814(a) and 1835 but only if his performance of functions under subsections (k) and (m) and sections 1814(a) and 1835 is consistent with the policy of the institution or agency with respect to which he performs them and with the functions which he is legally authorized to perform,".

(b) Section 1861(k)(2)(A) of such Act is amended by inserting after "two or more physicians" the following: "(of which at least two must be physicians described in subsection (r)(1) of this section)".

(c) The amendments made by this section shall take effect on January 1, 1981.

ACCESS TO BOOKS AND RECORDS OF SUBCONTRACTORS

SEC. 952. Section 1861(v)(1) of the Social Security Act is amended by adding after subparagraph (H) (added by section 930(p) of this title) the following new subparagraph:

"(I) In determining such reasonable cost, the Secretary may not include any costs incurred by a provider with respect to any services furnished in connection with matters for which payment may be made under this title and furnished pursuant to a contract between the provider and any of its subcontractors which is entered into after the date of the enactment of this subparagraph and the value or cost of which is $10,000 or more over a twelve-month period unless the contract contains a clause to the effect that—

"(i) until the expiration of four years after the furnishing of such services pursuant to such contract, the subcontractor shall make available, upon written request to the Secretary, or upon request to the Comptroller General, or any of their duly authorized representatives, the contract, and books, documents and records of such subcontractor that are necessary to certify the nature and extent of such costs, and

"(ii) if the subcontractor carries out any of the duties of the contract through a subcontract, with a value or cost of $10,000

or more over a twelve-month period, with a related organization, such subcontract shall contain a clause to the effect that until the expiration of four years after the furnishing of such services pursuant to such subcontract, the related organization shall make available, upon written request to the Secretary, or upon request to the Comptroller General, or any of their duly authorized representatives, the subcontract, and books, documents and records of such organization that are necessary to verify the nature and extent of such costs.

The Secretary shall prescribe in regulation criteria and procedures which the Secretary shall use in obtaining access to books, documents, and records under clauses required in contracts and subcontracts under this subparagraph.".

MEDICARE LIABILITY SECONDARY WHERE PAYMENT CAN BE MADE UNDER LIABILITY OR NO FAULT INSURANCE

SEC. 953. Section 1862(b) of the Social Security Act is amended—

(1) by inserting "or under an automobile or liability insurance policy or plan (including a self-insured plan) or under no fault insurance" before the period at the end of the first sentence;

(2) by inserting ", policy, plan, or insurance" before the period at the end of the second sentence; and

(3) by adding at the end the following new sentence: "The Secretary may waive the provisions of this subsection in the case of an individual claim if he determines that the probability of recovery or amount involved in such claim does not warrant the pursuing of the claim.".

PAYMENT FOR PHYSICIANS' SERVICES WHERE BENEFICIARY HAS DIED

SEC. 954. (a) Section 1870(f) of the Social Security Act is amended to read as follows:

"(f) If an individual who received medical and other health services for which payment may be made under section 1832(a)(1) dies, and no assignment of the right to payment for such services was made by such individual before his death, and payment for such services has not been made—

"(1) if the person or persons who furnished the services agree that the reasonable charge is the full charge for the services, payment for such services shall be made to such person or persons, and

"(2) if the person or persons who furnished the services do not agree that the reasonable charge is the full charge for the services, payment for such services shall be made on the basis of an itemized bill to the person who has agreed to assume the legal obligation to make payment for such services and files a request for payment (with such accompanying evidence of such legal obligation as may be required in regulations),

but only in such amount and subject to such conditions as would be applicable if the individual who received the services had not died.".

(b) The amendment made by this section shall apply only to claims filed on or after January 1, 1981.

PROVIDER REIMBURSEMENT REVIEW BOARD

SEC. 955. Section 1878(f)(1) of the Social Security Act is amended by inserting the following after the second sentence thereof: "Providers shall also have the right to obtain judicial review of any action of the fiscal intermediary which involves a question of law or regulations relevant to the matters in controversy whenever the Board determines (on its own motion or at the request of a provider of services as described in the following sentence) that it is without authority to decide the question, by a civil action commenced within sixty days of the date on which such determination is rendered. If a provider of services may obtain a hearing under subsection (a) and has filed a request for such a hearing, such provider may file a request for a determination by the Board of its authority to decide the question of law or regulations relevant to the matters in controversy (accompanied by such documents and materials as the Board shall require for purposes of rendering such determination). The Board shall render such determination in writing within thirty days after the Board receives the request and such accompanying documents and materials, and the determination shall be considered a final decision and not subject to review by the Secretary. If the Board fails to render such determination within such period, the provider may bring a civil action (within sixty days of the end of such period) with respect to the matter in controversy contained in such request for a hearing.".

PAYMENT WHERE BENEFICIARY NOT AT FAULT

SEC. 956. (a) Section 1879 of the Social Security Act is amended by adding the following subsection at the end thereof:

"(e) Where payment for inpatient hospital services or extended care services may not be made under part A of this title on behalf of an individual entitled to benefits under such part solely because of an unintentional, inadvertent, or erroneous action with respect to the transfer of such individual from a hospital or skilled nursing facility that meets the requirements of section 1861 (e) or (j) by such a provider of services acting in good faith in accordance with the advice of a utilization review committee, professional standards review organization, or fiscal intermediary, or on the basis of a clearly erroneous administrative decision by a provider of services, the Secretary shall take such action with respect to the payment of such benefits as he determines may be necessary to correct the effects of such unintentional, inadvertent, or erroneous action.".

(b) The amendment made by subsection (a) shall take effect on January 1, 1981.

TECHNICAL RENAL DISEASE AMENDMENTS

SEC. 957. (a) Section 1881(e) of the Social Security Act is amended—

(1) by striking out "and" the first place it appears in paragraph (1) and inserting a comma in lieu thereof;

(2) by inserting "and nonprofit entities which the Secretary finds can furnish equipment economically and efficiently," after "renal dialysis facilities," in paragraph (1);

(3) by striking out "such providers and facilities" and inserting in lieu thereof "such providers, facilities, and nonprofit entities"; and

(4) by striking out "or facility will—" in paragraph (2) and inserting in lieu thereof ", facility, or other entity will—".

(b) Section 1881(g) of such Act is amended by striking out "April" each place it appears and inserting in lieu thereof "July".

STUDIES AND DEMONSTRATION PROJECTS

SEC. 958. (a) The Secretary of Health and Human Services shall develop and carry out a demonstration project to determine (1) the extent to which the commencement of nutritional therapy in early renal failure, utilizing (but not limited to) controlled protein substances, can retard or arrest the progression of the disease with a resultant substantive deferment of dialysis, and (2) the administrative, financial, and other aspects of making such nutritional therapy generally available as part of the benefits received under title XVIII of the Social Security Act.

(b) The Secretary shall submit, to the Congress, within one year after the date of the enactment of this Act, a report on the demonstration projects being conducted by the Secretary with respect to waiving the applicable cost sharing amounts which beneficiaries under title XVIII of the Social Security Act have to pay for obtaining a second opinion on having surgery performed. Such report shall include any recommendations for legislative changes in such title which the Secretary finds desirable as a result of such demonstration projects.

(c) The Secretary shall conduct a study of the circumstances and conditions under which services furnished by registered dietitians should be covered as a home health benefit under title XVIII of the Social Security Act.

(d) The Secretary shall develop and carry out demonstration projects to determine the administrative, financial, and other aspects of making the services of clinical social workers more generally available as part of the benefits received under title XVIII of the Social Security Act.

(e) The Secretary shall, in consultation with appropriate professional organizations, conduct a comprehensive study of methods for providing coverage under part B of title XVIII of the Social Security Act for orthopedic shoes for individuals with disabling or deforming conditions who require special fitting considerations to help protect against increasing disability or serious medical complications or who require special shoes in conjunction with the use of an orthosis or foot support. The Secretary shall submit to the Congress, no later than July 1, 1981, a report on the findings of this study and such specific legislative recommendations as is appropriate with respect to the utilization, cost control, quality of care, and equitable and efficient administration of such an extension of coverage.

(f) The Secretary shall conduct a study of the circumstances and conditions under which services furnished with respect to respiratory therapy should be covered as a home health benefit under title XVIII of the Social Security Act.

(g) The Secretary shall conduct a study involving a comprehensive analysis of the cost effects of alternative approaches to improving

coverage under title XVIII of the Social Security Act for the treatment of various types of foot conditions.

(h) The Secretary shall submit a report on each of the demonstration projects and studies described in subsections (a), (c), (d), (f), and (g). Each such report shall be submitted within twenty-four months of the date of the enactment of this Act and shall contain any recommendations for legislative changes which the Secretary finds desirable as a result of conducting the demonstration project or study with respect to which the report is submitted.

(i) Where any study or demonstration project conducted under this section relates to payments with respect to services furnished by independent practitioners, such study or project shall include an evaluation of the effect such of payments on coordination of care, cost, quality, and the organization in the provision of services and the utilization of services.

(j) Grants, payments under contracts, and other expenditures made for studies and deomnstration projects under this section shall be made in appropriate part from the Federal Hospital Insurance Trust Fund (established by section 1817 of the Social Security Act) and the Federal Supplementary Medical Insurance Trust Fund (established by section 1841 of the Social Security Act). Grants and payments under contracts may be made either in advance or by way of reimbursement, as may be determined by the Secretary, and shall be made in such installments and on such conditions as the Secretary finds necessary to carry out the purpose of this section. With respect to any such grant, payment, or other expenditure, the amount to be paid from each of such trust funds shall be determined by the Secretary, giving due regard to the purposes of the experiment or project involved.

TEMPORARY DELAY ON PERIODIC INTERIM PAYMENTS

SEC. 959. Notwithstanding section 1815(a) of the Social Security Act, in the case of a hospital which is paid periodic interim payments under such section, the Secretary of Health and Human Services shall provide that with respect to the last twenty-one days for which such payments would otherwise be made during fiscal year 1981, such payments shall be deferred until fiscal year 1982.

PART C—PROVISIONS RELATING TO MEDICAID

DISPUTED MEDICAID CLAIMS

SEC. 961. (a) Section 1903(d) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(5) In any case in which the Secretary estimates that there has been an overpayment under this section to a State on the basis of a claim by such State that has been disallowed by the Secretary under section 1116(d), and such State disputes such disallowance, the amount of the Federal payment in controversy shall, at the option of the State, be retained by such State or recovered by the Secretary pending a final determination with respect to such payment amount. If such final determination is to the effect that any amount was properly disallowed, and the State chose to retain payment of the amount in controversy, the Secretary shall offset, from

any subsequent payments made to such State under this title, an amount equal to the proper amount of the disallowance plus interest on such amount disallowed for the period beginning on the date such amount was disallowed and ending on the date of such final determination (but not to exceed a period of twelve months with respect to disallowances made prior to October 1, 1981, or six months with respect to disallowances made thereafter) at the rate (determined by the Secretary) based on the average of the bond equivalent of the weekly 90-day Treasury bill auction rates during such period.".

(b) The amendment made by subsection (a) shall be effective with respect to expenditures for services furnished on or after October 1, 1980.

REIMBURSEMENT RATES UNDER MEDICAID FOR SKILLED NURSING AND INTERMEDIATE CARE FACILITY SERVICES

SEC. 962. (a) Section 1902(a)(13)(E) of the Social Security Act is amended to read as follows:

> *"(E) for payment of the skilled nursing facility and intermediate care facility services provided under the plan through the use of rates (determined in accordance with methods and standards developed by the State) which the State finds, and makes assurances satisfactory to the Secretary, are reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to provide care and services in conformity with applicable State and Federal laws, regulations, and quality and safety standards; and such State makes further assurances, satisfactory to the Secretary, for the filing of uniform cost reports by each skilled nursing or intermediate care facility and periodic audits by the State of such reports; and".*

(b) The amendment made by subsection (a) shall become effective on October 1, 1980.

EXTENSION OF INCREASED FUNDING FOR STATE MEDICAID FRAUD CONTROL UNITS

SEC. 963. Section 1903(a)(6) of the Social Security Act is amended by striking out "an amount equal to" and all that follows through "with respect to costs incurred" and inserting in lieu thereof the following:

> *"an amount equal to—*
>
> > *"(A) 90 per centum of the sums expended during such a quarter within the twelve-quarter period beginning with the first quarter in which a payment is made to the State pursuant to this paragraph, and*
> >
> > *"(B) 75 per centum of the sums expended during each succeeding calendar quarter,*
>
> *with respect to costs incurred".*

CHANGE IN CALENDAR QUARTER FOR WHICH SATISFACTORY UTILIZATION REVIEW MUST BE SHOWN TO RECEIVE WAIVER OF MEDICAID REDUCTION

SEC. 964. Section 1903(g)(3)(B) of the Social Security Act is amended—

(1) by striking out "October 1, 1977" and inserting in lieu thereof "January 1, 1978"; and

(2) by striking out "the calendar quarter ending on December 31, 1977" and inserting in lieu thereof "any calendar quarter ending on or before December 31, 1978".

REIMBURSEMENT UNDER MEDICAID FOR SERVICES FURNISHED BY NURSE-MIDWIVES

SEC. 965. (a)(1) Subsection (a) of section 1905 of the Social Security Act is amended—

(A) by striking out "and" at the end of paragraph (16);

(B) by redesignating paragraph (17) as paragraph (18); and

(C) by inserting after paragraph (16) the following new paragraph:

"(17) services furnished by a nurse-midwife (as defined in subsection (m)) which he is legally authorized to perform under State law (or the State regulatory mechanism provided by State law), whether or not he is under the supervision of, or associated with, a physician or other health care provider; and".

(2) Such section is further amended by adding at the end thereof the following new subsection:

"(m) The term 'nurse-midwife' means a registered nurse who has successfully completed a program of study and clinical experience meeting guidelines prescribed by the Secretary, or has been certified by an organization recognized by the Secretary, and performs services in the area of management of the care of mothers and babies (throughout the maternity cycle) which he is legally authorized to perform in the State in which he performs such services.".

(b) Section 1902(a) of such Act is amended—

(1) by striking out "clauses (1) through (5)" in paragraph (13)(B) and inserting in lieu thereof "paragraphs (1) through (5) and (17)";

(2) by striking out "clauses (1) through (5)" in paragraph (13)(C)(i) and inserting in lieu thereof "paragraphs (1) through (5) and (17)";

(3) by striking out "clauses numbered (1) through (16)" in paragraph (13)(C)(ii) and inserting in lieu thereof "paragraphs numbered (1) through (17)"; and

(4) by striking out "clauses (1) through (5) and (7)" in paragraph (14)(A)(i) and inserting in lieu thereof "paragraphs (1) through (5), (7), and (17)".

(c)(1) The amendments made by this section shall (except as provided under paragraph (2)) be effective with respect to payments under title XIX of the Social Security Act for calendar quarters beginning more than one hundred and twenty days after the date of the enactment of this Act.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and

Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

DEMONSTRATION PROJECTS RELATING TO THE TRAINING OF AFDC RECIPIENTS AS HOME HEALTH AIDES

SEC. 966. (a) The Secretary of Health and Human Services shall enter into agreements with States, selected at his discretion, for the purpose of conducting demonstration projects for the training and employment of eligible participants as homemakers or home health aides, who shall provide authorized services to elderly or disabled individuals, or other individuals in need of such services, to whom such services, are not otherwise reasonably and actually available or provided, and who would, without the availability of such services, be reasonably anticipated to require institutional care.

(b) For purposes of this section, the term "eligible participant" means an individual who has voluntarily applied for participation and who, at the time such individual enters the project established under this section, has been certified by the appropriate agency of State or local government as being eligible for financial assistance under a State plan approved under part A of title IV of the Social Security Act and as having continuously received such financial assistance during the ninety-day period which immediately precedes the date on which such individual enters such project and who, within such ninety-day period, had not been employed as a homemaker or home health aide.

(c)(1) The Secretary shall enter into agreements under this section with no more than twelve States. Priority shall be given to States which have demonstrated interest in providing services of the type authorized under this section.

(2) A State may apply to enter into an agreement under this section in such manner and at such time as the Secretary may prescribe.

(3) Any State entering into an agreement with the Secretary under this section must—

(A) provide that the demonstration project shall be administered by a State health services agency designated for this purpose by the Governor (which may be the State agency administering or responsible for the administration of the State plan for medical assistance under title XIX of the Social Security Act);

(B) provide that the agency designated pursuant to subparagraph (A) shall, to the maximum extent feasible, arrange for coordinating its activities under the agreement with activities of other State agencies having related responsibilities;

(C) establish a formal training program, which meets such standards as the Secretary may establish to assure the adequacy of such program, to prepare eligible participants to provide part-time and intermittent homemaker services or home health aide

services to individuals who are elderly, disabled, or otherwise in need of such services;

(D) provide for the full-time employment of those eligible participants who successfully complete the training program with one or more public agencies (or, by contract, with private bona fide nonprofit agencies) as homemakers or home health aides, rendering authorized services, under the supervision of persons determined by the State to be qualified to supervise the performance of such services, to individuals described in subsection (a) at wage levels comparable to the prevailing wage levels in the area for similar work;

(E) provide that such services provided under subparagraph (D) shall be made available without regard to income of the individual requiring such services, but that a reasonable fee will be charged (on a sliding scale basis) for such services provided to individuals who have income in excess of 200 percent of the needs standard in such State under the State plan approved under part A of title IV of the Social Security Act for a household of the same size as such individual's household;

(F) provide for a system of continuing independent professional review by an appropriate panel, which is not affiliated with the entity providing the services involved, to assure that services are provided only to individuals reasonably determined to be in need of such supportive services;

(G) provide for evaluation of the project and review of all agencies providing services under the project;

(H) submit periodic reports to the Secretary as he may require; and

(I) meet such other requirements as the Secretary may establish for the proper and efficient implementation of the project.

(4) The number of participants in any project shall not exceed that number which the Secretary determines to be reasonable, based upon the capability of the agencies involved to train, employ, and properly utilize eligible participants. Such number may be appropriately modified, subsequently, with the approval of the Secretary.

(5) Any contract with a private bona fide nonprofit agency entered into pursuant to paragraph (3)(D) shall provide for reasonable reimbursement of such agencies for services on a basis proportionate to the amount of time allocated to individuals eligible to receive such services under this section (and, in case such agency is an institution, the amount of the reimbursement shall not exceed the amount of reimbursement which would have been payable if the services involved had been provided by a free-standing agency).

(6) For purposes of this section, a facility of the Veterans' Administration shall, at the request of the Administrator of Veterans' Affairs, be considered to be a public agency. In the case of any such facility which is so considered to be a public agency, of the costs determined under this section which are attributable to such facility, 90 percent shall be paid by the State and 10 percent by the Veterans' Administration.

(d)(1) For purposes of this section, authorized homemaker and home health aide services include part-time or intermittent—

(A) personal care, such as bathing, grooming, and toilet care;

(B) assisting patients having limited mobility;

(C) feeding and diet assistance;

(D) home management, housekeeping, and shopping;

(E) health-oriented recordkeeping;

(F) family planning services; and

(G) simple procedures for identifying potential health problems.

(2) Such authorized services do no include any services performed in an institution, or any services provided under circumstances where institutionalization would be substantially more efficient as a means of providing such services.

(e)(1) Agreements shall be entered into under this section between the Secretary and the State agency designated by the Governor. Under such agreement the Secretary shall pay to the State, as an additional payment under section 1903 of the Social Security Act for each quarter, an amount equal to 90 percent of the reasonable costs incurred (less the Federal share of any related fees collected) by such State during such quarter in carrying out a demonstration project under this section, including reasonable wages and other employment costs of eligible participants employed full time under such project (and, for purposes of determining the amount of such additional payment, the 10 percent referred to in subsection (c)(6), paid by the Veterans' Administration, shall be deemed to be a cost incurred by the State in carrying out such a project).

(2) Demonstration projects under this section shall be of a maximum duration of four years, plus an additional time period of up to six months for planning and development, and up to six months for final evaluation and reporting. Federal funding under this subsection shall not be available for the employment of any eligible participant under the project after such participant has been employed for a period of three years.

(f) For purposes of title IV of the Social Security Act, any eligible participant taking part in a training program under a project authorized under this section shall be deemed to be participating in a work incentive program established by part C of such title.

(g) For the first year (and such additional immediately succeeding period as the State may specify) during which an eligible participant is employed under the project established under this section, such participant shall, notwithstanding any other provision of law, retain any eligibility for medical assistance under a State plan approved under title XIX of the Social Security Act, and any eligibility for social and supportive services provided under the State plan approved under part A of title IV of such Act, which such participant had at the time such participant entered the training program established under this section.

(h) The Secretary shall submit annual reports to the Congress evaluating the demonstration projects carried out under this section, and shall submit a final report to the Congress not more than six months after he has received the final reports from all States participating in such projects.

(i) The Secretary shall, and is hereby authorized to, waive such requirements, including formal solicitation and approval requirements, as will further expeditious and effective implementation of this section.

TITLE X—OTHER SOCIAL SECURITY ACT PROGRAMS; UNEMPLOYMENT COMPENSATION

Subtitle A—Public Assistance

FEDERAL DAY CARE REGULATIONS

SEC. 1001. (a) Section 2002(a)(9) of the Social Security Act is amended by adding at the end thereof the following new subparagraph:

"(D) The requirements imposed by this paragraph or by any regulations promulgated by the Department of Health and Human Services to carry out this paragraph shall be inapplicable to child day care services provided after June 30, 1980, and prior to July 1, 1981, which meet applicable standards of State and local law.".

(b) The provisions of section 3(f) of Public Law 93-647 shall not apply with respect to child day care services provided after June 30, 1980, and prior to July 1, 1981, which meet applicable standards of State and local laws.

(c) The Department of Health and Human Services shall assist each State in conducting a systematic assessment of current practices in day care programs funded under title XX of the Social Security Act. Upon completion of such assessments, but not later than June 1, 1981, the Secretary shall provide a summary report of the results of such assessments to the Congress.

ADDITIONAL SAVINGS

SEC. 1002. For provisions of law which reduce spending for fiscal year 1981 under public assistance programs under the Social Security Act in satisfaction of reconciliation requirements imposed by sections 3(a)(8) and 3(a)(15) of H. Con. Res. 307 (96th Congress), see the Social Security Disability Amendments of 1980 (Public Law 96-265) and the Adoption Assistance and Child Welfare Act of 1980 (Public Law 95-272).

Subtitle B—Old-Age, Survivors, and Disability Insurance Program

LIMIT ON RETROACTIVE BENEFITS

SEC. 1011. (a) The first sentence of section 202(j)(1) of the Social Security Act is amended by striking out "prior to the end of the twelfth month immediately succeeding such month." and inserting in lieu thereof the following: "prior to—

"(A) the end of the twelfth month immediately succeeding such month in any case where the individual (i) is filing application for a benefit under subsection (e) or (f), and satisfies paragraph (1)(B) of such subsection by reason of clause (ii) thereof, or (ii) is filing application for a benefit under subsection (b), (c), or (d) on the basis of the wages and self-employment income of a person entitled to disability insurance benefits, or

"(B) the end of the sixth month immediately succeeding such month in any case where subparagraph (A) does not apply.".

(b) The amendment made by subsection (a) shall be effective with respect to applications on or after the first day of the first month which begins 60 days or more after the date of the enactment of this Act.

ADDITIONAL SAVINGS

SEC. 1012. For provisions of law which reduce spending for fiscal year 1981 under the old-age, survivors, and disability insurance program in sstisfaction of reconciliation requirements imposed by sections 3(a)(8) and 3(a)(15) of H. Con. Res. 307 (96th Congress), see section 5 of Public Law 96-473, and the Social Security Disability Amendments of 1980 (Public Law 96-265).

Subtitle C—Unemployment Compensation Provisions

TERMINATION OF PROVISIONS PROVIDING REIMBURSEMENT FOR UNEMPLOYMENT BENEFITS PAID ON THE BASIS OF PUBLIC SERVICE EMPLOYMENT

SEC. 1021. Part B of title II of the Emergency Jobs and Unemployment Assistance Act of 1974 is amended by adding at the end thereof the following new section:

"TERMINATION

"SEC. 224. Notwithstanding any other provision of this part, the term 'public service wages' shall not include remuneration for services performed in weeks which begin after the date of the enactment of this section."

WAITING PERIOD FOR BENEFITS

SEC. 1022. (a) Section 204(a)(2) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended—

(1) by inserting "(A)" after "compensation", and

(2) by inserting immediately before the period the following: ", or (B) paid for the first week in an individual's eligibility period for which extended compensation or sharable regular compensation is paid, if the State law of such State provides for payment (at any time or under any circumstances) of regular compensation to an individual for his first week of otherwise compensable unemployment".

(b)(1) Except as provided in paragraph (2), the amendments made by this section shall apply in the case of compensation paid to individuals during eligibility periods beginning on or after the date of the enactment of this Act.

(2) In the case of a State with respect to which the Secretary of Labor has determined that State legislation is required in order to eliminate its current policy of paying regular compensation to an individual for his first week of otherwise compensable unemployment, the amendments made by this section shall apply in the case of compensation paid to individuals during eligibility periods beginning after the end of the first regularly scheduled session of the State leg-

islature ending more than thirty days after the date of the enactment of this Act.

BENEFITS ON ACCOUNT OF FEDERAL SERVICE TO BE PAID BY EMPLOYING FEDERAL AGENCY

SEC. 1023. (a) Title IX of the Social Security Act is amended by adding at the end thereof the following new section:

"FEDERAL EMPLOYEES COMPENSATION ACCOUNT

"Sec. 909. There is hereby established in the Unemployment Trust Fund a Federal Employees Compensation Account which shall be used for the purposes specified in section 8509 of title 5, United States Code. For the purposes provided for in section 904(e), such account shall be maintained as a separate book account.".

(b) Subchapter I of chapter 85, title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 8509. Federal Employees Compensation Account

"(a) The Federal Employees Compensation Account (as established by section 909 of the Social Security Act, and hereafter in this section referred to as the 'Account') in the Unemployment Trust Fund (as established by section 904 of such Act) shall consist of—

"(1) funds appropriated to or transferred thereto, and

"(2) amounts deposited therein pursuant to subsection (c).

"(b) Moneys in the Account shall be available only for the purpose of making payments to States pursuant to agreements entered into under this subchapter and making payments of compensation under this subchapter in States which do not have in effect such an agreement.

"(c)(1) Each employing agency shall deposit into the Account amounts equal to the expenditures incurred under this subchapter on account of Federal service performed by employees and former employees of that agency.

"(2) Deposits required by paragraph (1) shall be made during each calendar quarter and the amount of the deposit to be made by any employing agency during any quarter shall be based on a determination by the Secretary of Labor as to the amounts of payments, made prior to such quarter from the Account based on Federal service performed by employees of such agency after December 31, 1980, with respect to which deposit has not previously been made. The amount to be deposited by any employing agency during any calendar quarter shall be adjusted to take account of any overpayment or underpayment of deposit during any previous quarter for which adjustment has not already been made.

"(d) The Secretary of Labor shall certify to the Secretary of the Treasury the amount of the deposit which each employing agency is required to make to the Account during any calendar quarter, and the Secretary of the Treasury shall notify the Secretary of Labor as to the date and amount of any deposit made to such Account by any such agency.

"(e) Prior to the beginning of each fiscal year (commencing with the fiscal year which begins October 1, 1981) the Secretary of Labor shall estimate—

"(1) the amount of expenditures which will be made from the Account during such year, and

"(2) the amount of funds which will be available during such year for the making of such expenditures,

and if, on the basis of such estimate, he determines that the amount described in paragraph (2) is in excess of the amount necessary—

"(3) to meet the expenditures described in paragraph (1), and

"(4) to provide a reasonable contingency fund so as to assure that there will, during all times in such year, be sufficient sums available in the Account to meet the expenditures described in paragraph (1),

he shall certify the amount of such excess to the Secretary of the Treasury and the Secretary of the Treasury shall transfer, from the Account to the general fund of the Treasury, an amount equal to such excess.

"(f) The Secretary of Labor is authorized to establish such rules and regulations as may be necessary or appropriate to carry out the provisions of this section.

"(g) Any funds appropriated after the establishment of the Account, for the making of payments for which expenditures are authorized to be made from moneys in the Account, shall be made to the Account; and there are hereby authorized to be appropriated to the Account, from time to time, such sums as may be necessary to assure that there will, at all times, be sufficient sums available in the Account to meet the expenditures authorized to be made from moneys therein.".

(c) All funds appropriated which are available for the making of payments to States after December 31, 1980, pursuant to agreements entered into under subchapter I of chapter 85 of title 5, United States Code, or for the making of payments after such date of compensation under such subchapter in States which do not have in effect such an agreement, shall be transferred on January 1, 1981, to the Federal Employees Compensation Account established by section 909 of the Social Security Act. On and after such date, all payments described in the preceding sentence shall be made from such Account as provided by section 8509 of title 5, United States Code.

LIMITATION ON EXTENDED UNEMPLOYMENT COMPENSATION PROGRAM

SEC. 1024. (a) Section 202(a) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by adding at the end thereof the following new paragraphs:

"(3)(A) Notwithstanding the provisions of paragraph (2), payment of extended compensation under this Act shall not be made to any individual for any week of unemployment in his eligibility period—

"(i) during which he fails to accept any offer of suitable work (as defined in subparagraph (c)) or fails to apply for any suitable work to which he was referred by the State agency; or

"(ii) during which he fails to actively engage in seeking work.

"(B) If any individual is ineligible for extended compensation for any week by reason of a failure described in clause (i) or (ii) of subparagraph (A), the individual shall be ineligible to receive extended compensation for any week which begins during a period which—

"(i) begins with the week following the wek in which such failure occurs, and

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"(ii) does not end until such individual has been employed during at least 4 weeks which begin after such failure and the total of the remuneration earned by the individual for being so employed is not less than the product of 4 multiplied by the individual's average weekly benefit amount (as determined for purposes of subsection (b)(1)(c)) for his benefit year.

"(C) For purposes of this paragraph, the term 'suitable work' means, with respect to any individual, any work which is within such individual's capabilities; except that, if the individual furnishes evidence satisfactory to the State agency that such individual's prospects for obtaining work in his customary occupation within a reasonably short period are good, the determination of whether any work is suitable work with respect to such individual shall be made in accordance with the applicable State law.

"(D) Extended compensation shall not be denied under clause (i) of subparagraph (A) to any individual for any week by reason of a failure to accept an offer of, or apply for, suitable work—

"(i) if the gross average weekly remuneration payable to such individual for the position does not exceed the sum of—

"(I) the individual's average weekly benefit amount (as determined for purposes of subsection (b)(1)(C)) for his benefit year, plus

"(II) the amount (if any) of supplemental unemployment compensation benefits (as defined in section 501(c)(17)(D) of the Internal Revenue Code of 1954) payable to such individual for such week;

"(ii) if the position was not offered to such individual in writing and was not listed with the State employment service;

"(iii) if such failure would not result in a denial of compensation under the provisions of the applicable State law to the extent that such provisions are not inconsistent with the provisions of subparagraphs (C) and (E); or

"(iv) if the position pays wages less than the higher of—

"(I) the minimum wage provided by section 6(a)(1) of the Fair Labor Standards Act of 1938, without regard to any exemption; or

"(II) any applicable State or local minimum wage.

"(E) For purposes of this paragraph, an individual shall be treated as actively engaged in seeking work during any week if—

"(i) the individual has engaged in a systematic and sustained effort to obtain work during such week, and

"(ii) the individual provides tangible evidence to the State agency that he has engaged in such an effort during such week.

"(F) For purposes of section 3304(a)(11) of the Internal Revenue Code of 1954, a State law shall provide for referring applicants for benefits under this Act to any suitable work to which clauses (i), (ii), (iii), and (iv) of subparagraph (D) would not apply.

"(4) No provision of State law which terminates a disqualification for voluntarily leaving employment, being discharged for misconduct, or refusing suitable employment shall apply for purposes of determining eligiblity for extended compensation unless such termination is based upon employment subsequent to the date of such disqualification.

"(5) No payment shall be made under this Act to any State in respect of any sharable regular compensation paid to any individual

for any week if, under the rules of paragraphs (3) and (4), extended compensation would not have been payable to such individual for such week.".

(b) The amendment made by this section shall apply with respect to weeks of unemployment beginning after March 31, 1981.

CERTIFICATION OF STATE UNEMPLOYMENT LAWS

SEC. 1025. On October 31 of any taxable year after 1980, the Secretary of Labor shall not certify any State, as provided in section 3304(c) of the Internal Revenue Code of 1954, which, after reasonable notice and opportunity for a hearing to the State agency, the Secretary of Labor finds has failed to amend its law so that it contains each of the provisions required by reason of the enactment of the preceding provisions of this part to be included therein, or has with respect to the 12-month period ending on such October 31, failed to comply substantially with any such provision.

ADDITIONAL SAVINGS

SEC. 1026. For provisions of law which reduce spending for fiscal year 1981 under the unemployment compensation program in satisfaction of reconciliation requirements imposed by sections 3(a)(8) and 3(a)(15) of H. Con. Res. 307 (96th Congress), see sections 415 and 416 of the Multiemployer Pension Plan Amendments Act of 1980 (Public Law 96-364).

TITLE XI—REVENUE MEASURES

SEC. 1100. SHORT TITLE.

This title may be cited as the "Revenue Adjustments Act of 1980".

Subtitle A—Housing Bonds

SEC. 1101. SHORT TITLE.

This subtitle may be cited as the "Mortgage Subsidy Bond Tax Act of 1980".

SEC. 1102. MORTGAGE SUBSIDY BONDS.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to items specifically excluded from gross income) is amended by inserting after section 103 the following new section:

"SEC. 103A. MORTGAGE SUBSIDY BONDS.

"(a) GENERAL RULE.—Except as otherwise provided in this section, any mortgage subsidy bond shall be treated as an obligation not described in subsection (a) (1) or (2) of section 103.

"(b) MORTGAGE SUBSIDY BOND DEFINED.—

"(1) IN GENERAL.—For purposes of this title, the term 'mortgage subsidy bond' means any obligation which is issued as part of an issue a significant portion of the proceeds of which are to be used directly or indirectly for mortgages on owner-occupied residences.

"(2) EXCEPTIONS.—The following shall not be treated as mortgage subsidy bonds:

"(A) any qualified mortgage bond; and

"(B) any qualified veterans' mortgage bond.

"(c) QUALIFIED MORTGAGE BOND; QUALIFIED MORTGAGE ISSUE; QUALIFIED VETERANS' MORTGAGE BOND.—

"(1) QUALIFIED MORTGAGE BOND DEFINED.—

"(A) IN GENERAL.—For purposes of this title, the term 'qualified mortgage bond' means an obligation which is issued as part of a qualified mortgage issue.

"(B) TERMINATION DECEMBER 31, 1983.—No obligation issued after December 31, 1983, may be treated as a qualified mortgage bond.

"(2) QUALIFIED MORTGAGE ISSUE DEFINED.—

"(A) DEFINITION.—For purposes of this title, the term 'qualified mortgage issue' means an issue by a State or political subdivision thereof of 1 or more obligations, but only if—

"(i) all proceeds of such issue (exclusive of issuance costs and a reasonably required reserve) are to be used to finance owneroccupied residences, and

"(ii) such issue meets the requirements of subsections (d), (e), (f), (g), (h), (i), (j), (k), and (l).

"(B) GOOD FAITH EFFORT TO COMPLY WITH MORTGAGE ELIGIBILITY REQUIREMENTS.—An issue which fails to meet 1 or more of the requirements of subsections (d), (e), and (f) and paragraphs (2) and (3) of subsection (j) shall be treated as meeting such requirements if—

"(i) the issuer in good faith attempted to meet all such requirements before the mortgages were executed,

"(ii) 95 percent or more of the proceeds devoted to owner-financing was devoted to residences with respect to which (at the time the mortgages were executed) all such requirements were met, and

"(iii) any failure to meet the requirements of such subsections and paragraphs is corrected within a reasonable period after such failure is first discovered.

"(C) GOOD FAITH EFFORT TO COMPLY WITH OTHER REQUIREMENTS.—An issue which fails to meet 1 or more of the requirements of subsections (g), (h), and (i), and paragraph (1) of subsection (j) shall be treated as meeting such requirements if—

"(i) the issuer in good faith attempted to meet all such requirements, and

"(ii) any failure to meet such requirements is due to inadvertent error after taking reasonable steps to comply with such requirements.

"(3) QUALIFIED VETERANS' MORTGAGE BOND DEFINED.—For purposes of this section, the term 'qualified veterans' mortgage bond' means any obligation—

"(A) which is issued in registered form as part of an issue substantially all of the proceeds of which are to be used to provide residences for veterans,

"(B) the payment of the principal and interest on which is secured by the general obligation of a State, and

"(C) which is part of an issue which meets the requirements of subsection (j)(2).

"(d) Residence Requirements.—

"(1) For a residence.—A residence meets the requirements of this subsection only if—

"(A) it is a single-family residence which can reasonably be expected to become the principal residence of the mortgagor within a reasonable time after the financing is provided, and

"(B) it is located within the jurisdiction of the authority issuing the obligation.

"(2) For an issue.—An issue meets the requirements of this subsection only if all of the residences for which owner-financing is provided under the issue meet the requirements of paragraph (1).

"(e) 3-Year Requirement.—

"(1) In general.—An issue meets the requirements of this subsection only if each mortgagor to whom financing is provided under the issue had a present ownership interest in a principal residence of such mortgagor at no time during the 3-year period ending on the date the mortgage is executed. For purposes of the preceding sentence, the mortgagor's interest in the residence with respect to which the financing is being provided shall not be taken into account.

"(2) Exceptions.—Paragraph (1) shall not apply with respect to—

"(A) any financing provided with respect to a targeted area residence,

"(B) any qualified home improvement loan, and

"(C) any qualified rehabilitation loan.

"(f) Purchase Price Requirement.—

"(1) In general.—An issue meets the requirements of this subsection only if the acquisition cost of each residence the owner-financing of which is to be provided under the issue does not exceed 80 percent of the average area purchase price applicable to such residence.

"(2) Average area purchase price.—For purposes of paragraph (1), the term 'average area purchase price' means, with respect to any residence, the average purchase price of single family residences (in the statistical area in which the residence is located) which were purchased during the most recent 12-month period for which sufficient statistical information is available. The determination under the preceding sentence shall be made as of the date on which the commitment to provide the financing is made (or, if earlier, the date of the purchase of the residence).

"(3) Separate application to new residences and old residences.—For purposes of this subsection, the determination of average area purchase price shall be made separately with respect to—

"(A) residences which have not been previously occupied, and

"(B) residences which have been previously occupied.

"(4) Special rule for 2 to 4 family residences.—For purposes of this subsection, to the extent provided in regulations, the average area purchase price shall be made separately with respect to 1 family, 2 family, 3 family, and 4 family residences.

"(5) Special rule for targeted area residences.—In the case of a targeted area residence, paragraph (1) shall be applied by substituting '110 percent' for '90 percent'.

"(6) Exception for qualified home improvement loans.—Paragraph (1) shall not apply with respect to any qualified home improvement loan.

"(g) Limitation on Aggregate Amount of Qualified Mortgage Bonds Issued During Any Calendar Year.—

"(1) In general.—An issue meets the requirements of this subsection only if the aggregate amount of bonds issued pursuant thereto, when added to the aggregate amount of qualified mortgage bonds previously issued by the issuing authority during the calendar year, does not exceed the applicable limit for such authority for such calendar year.

"(2) Applicable limit for state housing agency.—For purposes of this subsection—

"(A) In general.—The applicable limit for any State housing finance agency for any calendar year shall be 50 percent of the State ceiling for such year.

"(B) Special rule where more than 1 agency.—If any State has more than 1 State housing finance agency, all such agencies shall be treated as a single agency.

"(3) Applicable limit for other issuers.—For purposes of this subsection—

"(A) In general.—The applicable limit for any issuing authority (other than a State housing finance agency) for any calendar year is an amount which bears the same ratio to 50 percent of the State ceiling for such year as—

"(i) the average annual aggregate principal amount of mortgages executed during the immediately preceding 3 calendar years for single-family owner-occupied residences located within the jurisdiction of such issuing authority, bears to

"(ii) an average determined in the same way for the entire State.

"(B) Overlapping jurisdictions.—For purposes of subparagraph (A)(i), if an area is within the jurisdiction of 2 or more governmental units, such area shall be treated as only within the jurisdiction of the unit having jurisdiction over the smallest geographical area unless such unit agrees to surrender all or part of such jurisdiction for such calendar year to the unit with overlapping jurisidction which has the next smallest geographical area.

"(4) State ceiling.—For purposes of this subsection, the State ceiling applicable to any State for any calendar year shall be the greater of—

"(A) 9 percent of the average annual aggregate principal amount of mortgages executed during the immediately preceding 3 calendar years for single-family owner-occupied residences located within the jurisdiction of such State, or

"(B) $200,000,000.

"(5) Special rule for states with constitutional home rule cities.—For purposes of this subsection—

"(A) In general.—The applicable limit for any constitutional home rule city for any calendar year shall be deter-

mined under subparagraph (A) of paragraph (3) by substituting '100 percent' for '50 percent'.

"(B) Coordination with paragraphs (2) and (3).—In the case of any State which contains 1 or more constitutional home rule cities, for purposes of applying paragraphs (2) and (3) with respect to issuing authorities in such State other than constitutional home rule cities, the State ceiling for any calendar year shall be reduced by the aggregate applicable limits determined for such year for all constitutional home rule cities in such State.

"(C) Constitutional home rule city.—For purposes of this subsection, the term 'constitutional home rule city' means, with respect to any calendar year, any political subdivision of a State which, under a State constitution which was adopted in 1970 and effective on July 1, 1971, had home rule powers on the first day of the calendar year.

"(6) State may provide for different allocation.—

"(A) In general.—Except as provided in subparagraph (C), a State may, by law enacted after the date of the enactment of this section, provide a different formula for allocating the State ceiling among the governmental units in such State having authority to issue qualified mortgage bonds.

"(B) Interim authority for governor.—

"(i) In general.—Except as otherwise provided in subparagraph (C), the Governor of any State may proclaim a different formula for allocating the State ceiling among the governmental units in such State having authority to issue qualified mortgage bonds.

"(ii) Termination of authority.—The authority provided in clause (i) shall not apply after the earlier of—

"(I) the first day of the first calendar year beginning after the first calendar year after 1980 during which the legislature of the State met in regular session, or

"(II) the effective date of any State legislation with respect to the allocation of the State ceiling enacted after the date of the enactment of this section.

(C) State may not alter allocation to constitutional home rule cities.—Except as otherwise provided in a State constitutional amendment (or law changing the home rule provision adopted in the manner provided by the State constitution), the authority provided in this paragraph shall not apply to that portion of the State ceiling which is allocated to any constitutional home rule city in the State unless such city agrees to such different allocation.

"(7) Transitional rules.—In applying this subsection to any calendar year, there shall not be taken into account any bond which, by reason of section 1104 of the Mortgage Subsidy Bond Tax Act of 1980, receives the same tax treatment as bonds issued on or before April 24, 1979.

"(h) Portion of Loans Required To Be Placed in Targeted Areas.—

"(1) In general.—An issue meets the requirements of this subsection only if at least 20 percent of the proceeds of the issue which are devoted to providing owner-financing is made available (with reasonable diligence) for owner-financing of targeted area residences for at least 1 year after the date on which owner-financing is first made available with respect to targeted area residences.

"(2) Limitation.—Nothing in paragraph (1) shall be treated as requiring the making available of an amount which exceeds 40 percent of the average annual aggregate principle amount of mortgages executed during the immediately preceding 3 calendar years for single-family owner-occupied residences located in targeted areas within the jurisdiction of the issuing authority.

"(i) Requirements Related to Arbitrage.—

"(1) In general.—An issue meets the requirements of this subsection only if such issue meets the requirements of paragraphs (2), (3), and (4) of this subsection. Such requirements shall be in addition to the requirements of section 103(c).

"(2) Effective rate or mortgage interest cannot exceed bond yield by more than 1 percentage point.—

"(A) In general.—An issue shall be treated as meeting the requirements of this paragraph only if the excess of—

"(i) the effective rate of interest on the mortgages provided under the issue, over

"(ii) the yield on the issue,

is not greater than 1 percentage point.

"(B) Effective rate of mortgage interest.—

"(i) In general.—In determining the effective rate of interest on any mortgage for purposes of this paragraph, there shall be taken into account all fees, charges, and other amounts borne by the mortgagor which are attributable to the mortgage or to the bond issue.

"(ii) Specification of some of the amounts to be treated as borne by the mortgagor.—For purposes of clause (i), the following items (among others) shall be treated as borne by the mortgagor:

"(I) all points or similar charges paid by the seller of the property, and

"(II) the excess of the amounts received from any person other than the mortgagor by any person in connection with the acquisition of the mortgagor's interest in the property over the usual and reasonable acquisition costs of a person acquiring like property where owner-financing is not provided through the use of qualified mortgage bonds.

"(iii) Specification of some of the amounts to be treated as not borne by the mortgagor.—For purposes of clause (i), the following items shall not be taken into account:

"(I) any expected rebate of arbitrage profits, and

'(II) any application fee, survey fee, credit report fee, insurance charge, or similar amount to the extent such amount does not exceed amounts

charged in such area in cases where owner-financing is not provided through the use of qualified mortgage bonds.

Subclause (II) shall not apply to origination fees, points, or similar amounts.

"(iv) PREPAYMENT ASSUMPTION.—In determining the effective rate of interest, it shall be assumed that the mortgage prepayment rate will be the rate set forth in the most recent mortgage maturity experience table published by the Federal Housing Administration for the State (or, if available, the area within the State) in which the residences are located.

"(C) YIELD ON THE ISSUE.—For purposes of this subsection, the yield on the issue shall be determined on the basis of—

"(i) the issue price (within the meaning of section 1232(b)(2)), and

"(ii) an expected maturity for the bonds which is consistent with the assumption required under subparagraph (B)(iv).

"(3) NON-MORTGAGE INVESTMENT REQUIREMENTS.—

"(A) IN GENERAL.—An issue meets the requirements of this paragraph only if—

"(i) at no time during any bond year may the amount invested in non-mortgage investments with a yield higher than the yield on the issue exceed 150 percent of the debt service on the issue for the bond year, and

"(ii) the aggregate amount invested as provided in clause (i) is promptly and appropriately reduced as mortgages are repaid.

"(B) EXCEPTION FOR TEMPORARY PERIODS.—Subparagraph (A) shall not apply to—

"(i) proceeds of the issue invested for an initial temporary period until such proceeds are needed for mortgages, and

"(ii) temporary investment periods related to debt service.

"(C) DEBT SERVICE DEFINED.—For purposes of subparagraph (A), the debt service on the issue for any bond year is the scheduled amount of interest and amortization of principal payable for such year with respect to such issue. For purposes of the preceding sentence, there shall not be taken into account amounts scheduled with respect to any bond which has been retired before the beginning of the bond year.

"(4) ARBITRAGE AND INVESTMENT GAINS TO BE USED TO REDUCE COSTS OF OWNER-FINANCING.—

"(A) IN GENERAL.—An issue shall be treated as meeting the requirements of this paragraph only if an amount equal to the sum of—

"(i) the excess of—

"(I) the amount earned on all non-mortgage investments (other than investments attributable to an excess described in this clause), over

"(II) the amount which would have been earned if the investments were invested at a rate equal to the yield on the issue, plus

"(ii) any income attributable to the excess described in clause (i),

shall be paid or credited to the mortgagors as rapidly as may be practicable.

"(B) INVESTMENT GAINS AND LOSSES.—For purposes of subparagraph (A), in determining the amount earned on all non-mortgage investments, any gain or loss on the disposition of such investments shall be taken into account.

"(j) OTHER REQUIREMENTS.—

"(1) OBLIGATIONS MUST BE REGISTERED.—An issue meets the requirements of this subsection only if each obligation issued pursuant to such issue is in registered form.

"(2) MORTGAGES MUST BE NEW MORTGAGES.—

"(A) IN GENERAL.—An issue meets the requirements of this subsection only if no part of the proceeds of such issue is to be used to acquire or replace existing mortgages.

"(B) EXCEPTIONS.—Under regulations prescribed by the Secretary, the replacement of—

"(i) construction period loans,

"(ii) bridge loans or similar temporary initial financing, and

"(iii) in the case of a qualified rehabilitation, an existing mortgage,

shall not be treated as the acquisition or replacement of an existing mortgage for purposes of subparagraph (A).

"(3) CERTAIN REQUIREMENTS MUST BE MET WHERE MORTGAGE IS ASSUMED.—An issue meets the requirements of this subsection only if a mortgage with respect to which owner-financing has been provided under such issue may be assumed only if the requirements of subsections (d), (e), and (f), are met with respect to such assumption.

"(k) TARGETED AREA RESIDENCES.—

"(1) IN GENERAL.—For purposes of this section, the term 'targeted area residence' means a residence in an area which is either—

"(A) a qualified census tract, or

"(B) an area of chronic economic distress.

"(2) QUALIFIED CENSUS TRACT.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'qualified census tract' means a census tract in which 70 percent or more of the families have income which is 80 percent or less of the statewide median family income.

"(B) DATA USED.—The determination under subparagraph (A) shall be made on the basis of the most recent decennial census for which data are available.

"(3) AREA OF CHRONIC ECONOMIC DISTRESS.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'area of chronic economic distress' means an area of chronic economic distress—

"(i) designated by the State as meeting the standards established by the State for purposes of this subsection, and

"(ii) the designation of which has been approved by the Secretary and the Secretary of Housing and Urban Development.

"(B) CRITERIA TO BE USED IN APPROVING STATE DESIGNATIONS.—The criteria used by the Secretary and the Secretary of Housing and Urban Development in evaluating any proposed designation of an area for purposes of this subsection shall be—

"(i) the condition of the housing stock, including the age of the housing and the number of abandoned and substandard residential units,

"(ii) the need of area residents for owner-financing under this section, as indicated by low per capita income, a high percentage of families in poverty, a high number of welfare recipients, and high unemployment rates,

"(iii) the potential for use of owner-financing under this section to improve housing conditions in the area, and

"(iv) the existence of a housing assistance plan which provides a displacement program and a public improvements and services program.

"(l) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) MORTGAGE.—The term 'mortgage' includes any other owner-financing.

"(2) BOND.—The term 'bond' includes any obligation.

"(3) STATE.—The term 'State' includes a possession of the United States and the District of Columbia.

"(4) STATISTICAL AREA.—

"(A) IN GENERAL.—The term 'statistical area' means—

"(i) a standard metropolitan statistical area, and

"(ii) any county (or the portion thereof) which is not within a standard metropolitan statistical area.

"(B) STANDARD METROPOLITAN STATISTICAL AREA.—The term 'standard metropolitan statistical area' means the area in and around a city of 50,000 inhabitants or more (or equivalent area) as defined by the Secretary of Commerce.

"(C) DESIGNATION WHERE ADEQUATE STATISTICAL INFORMATION NOT AVAILABLE.—For purposes of this paragraph, if there is insufficient recent statistical information with respect to a county (or portion thereof) described in subparagraph (A)(ii), the Secretary may substitute for such county (or portion thereof) another area for which there is sufficient recent statistical information.

"(D) DESIGNATION WHERE NO COUNTY.—In the case of any portion of a State which is not within a county, subparagraphs (A)(ii) and (C) shall be applied by substituting for 'county' an area designated by the Secretary which is the equivalent of a county.

"(5) ACQUISITION COST.—

"(A) IN GENERAL.—The term 'acquisition cost' means the cost of acquiring the residence as a completed residential unit.

"(B) Exceptions.—The term 'acquisition cost' does not include—

"(i) usual and reasonable settlement or financing costs,

"(ii) the value of services performed by the mortgagor or members of his family in completing the residence, and

"(iii) the cost of land which has been owned by the mortgagor for at least 2 years before the date on which construction of the residence begins.

"(C) Special rule for qualified rehabilitation loans.—In the case of a qualified rehabilitation loan, for purposes of subsection (f), the term 'acquisition cost' includes the cost of the rehabilitation.

"(6) Qualified home improvement loan.—The term 'qualified home improvement loan' means the financing (in an amount which does not exceed $15,000)—

"(A) of alterations, repairs, and improvements on or in connection with an existing residence by the owner thereof, but

"(B) only of such items as substantially protect or improve the basic livability or energy efficiency of the property.

"(7) Qualified rehabilitation loan.—

"(A) In general.—The term 'qualified rehabilitation loan' means any owner-financing provided in connection with—

"(i) a qualified rehabilitation, or

"(ii) the acquisition of a residence with respect to which there has been a qualified rehabilitation,

but only if the mortgagor to whom such financing is provided is the first resident of the residence after the completion of the rehabilitation.

"(B) Qualified rehabilitation.—For purposes of subparagraph (A), the term 'qualified rehabilitation' means any rehabilitation of a building if—

"(i) there is a period of at least 20 years between the date on which the building was first used and the date on which the physical work on such rehabilitation begins,

"(ii) 75 percent or more of the existing external walls of such building are retained in place as external walls in the rehabilitation process, and

"(iii) the expenditures for such rehabilitation are 25 percent or more of the mortgagor's adjusted basis in the residence.

For purposes of clause (iii), the mortgagor's adjusted basis shall be determined as of the completion of the rehabilitation or, if later, the date on which the mortgagor acquires the residence.

"(8) Determinations on actuarial basis.—All determinations of yield, effective interest rates, and amounts required to be paid or credited to mortgagors under subsection (i)(4)(A) shall be made on an actuarial basis taking into account the present value of money.

"(9) SINGLE-FAMILY AND OWNER-OCCUPIED RESIDENCES INCLUDE CERTAIN RESIDENCIES WITH 2 TO 4 UNITS.—Except for purposes of subsections (g) and (h)(2), the terms 'single-family' and 'owner-occupied', when used with respect to residences, include 2, 3, or 4 family residences—

"(A) one unit of which is occupied by the owner of the units, and

"(B) which were first occupied at least 5 years before the mortgage is executed.

"(m) SPECIAL RULE FOR ISSUE USED FOR OWNER-OCCUPIED HOUSING AND RENTAL HOUSING.—In the case of an issue—

"(1) part of the proceeds of which are to be used for mortgages on owner-occupied residences in a manner which meets the requirements of this section, and

"(2) part of the proceeds of which are to be used for rental housing which meets the requirements of section 103(b)(4)(A),

under regulations prescribed by the Secretary, each such part shall be treated as a separate issue.

"(n) ADVANCE REFUNDING OF MORTGAGE SUBSIDY BONDS NOT PERMITTED.—On and after the date of the enactment of this section, no obligation may be issued for the advance refunding of a mortgage subsidy bond (determined without regard to subsection (b)(2)).'

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 of such Code is amended by inserting after the item relating to section 103 the following new item:

"Sec. 103A. Mortgage subsidy bonds."

SEC. 1103. INDUSTRIAL DEVELOPMENT BONDS FOR HOUSING PURPOSES LIMITED TO LOW- OR MODERATE-INCOME RENTAL HOUSING.

(a) IN GENERAL.—Subparagraph (A) of paragraph (4) of section 103(b) of the Internal Revenue Code of 1954 (relating to industrial development bonds) is amended to read as follows:

"(A) projects for residential rental property if each obligation issued pursuant to the issue is in registered form and if—

"(i) 15 percent or more in the case of targeted area projects, or

"(ii) 20 percent or more in the case of any other project,

of the units in each project are to be occupied by individuals of low or moderate income (within the meaning of section 167(k)(3)(B)),".

(b) TARGETED AREA PROJECT DEFINED.—Paragraph (4) of section 103(b) of such Code is amended by inserting before the last sentence the following new sentence:

"For purposes of subparagraph (A), the term 'targeted area project' means a project located in a qualified census tract (within the meaning of section 103A(k)(2)) or an area of chronic economic distress (within the meaning of section 103A(k)(3)).'

(c) TECHNICAL AMENDMENT.—Paragraph (6) of section 103(b) of such Code (relating to exemption for certain small issues) is amended by adding at the end thereof the following new subparagraph:

"(J) ISSUES FOR RESIDENTIAL PURPOSES.—This paragraph shall not apply to any obligation which is issued as a part of an issue a significant portion of the proceeds of which

are to be used directly or indirectly to provide residential real property for family units."

SEC. 1104. EFFECTIVE DATES FOR BOND PROVISIONS.

(a) General Rule.—

(1) In general.—Except as otherwise provided in this section, the amendments made by sections 1102 and 1103 shall apply to obligations issued after April 24, 1979.

(2) Exceptions for certain obligations issued before January 1, 1981.—The amendments made by sections 1102 and 1103 shall not apply to obligations issued before January 1, 1981, if such obligations are part of an issue substantially all the proceeds of which (exclusive of issuance costs and a reasonably required reserve) are, before the date which is 1 year after the date of issue of the obligations, committed—

(A) except as provided in subparagraph (B), by firm commitment letters (similar to those used in financing not provided with tax-exempt bonds), and

(B) in the case of rental housing, by the commencement of construction of the project or by the acquisition of the project.

(b) Exception for Official Action Taken Before April 25, 1979.—

(1) In general.—The amendments made by sections 1102 and 1103 shall not apply to obligations if official action before April 25, 1979, of the governing body of the unit having authority to issue such obligations indicated an intent to issue such obligations.

(2) Action by staff of housing authority treated as action of authority in certain cases.—For purposes of paragraph (1), if, before April 25, 1979—

(A) the permanent professional staff of a State or local housing authority performed substantial work on a bond issue, and

(B) it was reasonable to expect that the bond issue, as developed by the staff, would be promptly approved by the governing body of the housing authority,

then such action by such staff shall be treated as the official action of such governing body.

(3) Special rules relating to size of issue.—

(A) In general.—Except as provided in subparagraph (B), an issue does not qualify for the exception provided by paragraph (1) if the issue size exceeds the intended issue size.

(B) Exception.—In the case of an issue to provide owner-financing for residences for which as of April 24, 1979, there was no documentation relating to intended issue size, paragraph (1) shall not apply unless—

(i) substantially all of the proceeds of the issue (exclusive of issuance costs and a reasonably required reserve) are to be used to provide owner-financing for one to four family residences (one unit of which is owner occupied) and not to acquire or replace existing mortgages (within the meaning of section 103A(j)(2) of the Internal Revenue Code of 1954), and

(ii) substantially all of the proceeds referred to in clause (i) are committed by firm commitment letters (similar to those used in owner-financing not provided with tax-exempt bonds) to such owner-financing before the day which is 9 months after the date of issue of the obligations.

(C) ISSUE SIZE DEFINED.—For purposes of this paragraph, the term "issue size" means the aggregate face amount of obligations issued pursuant to the issue.

(D) INTENDED ISSUE SIZE.—For purposes of this paragraph, the term "intended issue size" means the aggregate face amount of obligations which a reasonable individual would reasonably conclude from the documentation before April 25, 1979, was the issue size which the governing body of the issuing authority intended to issue.

(4) LOCAL REFERENDUM HELD BEFORE JUNE 13, 1979.—

(A) IN GENERAL.—For purposes of paragraph (1), if—

(i) on April 25, 1979, legislation was pending in a State legislature,

(ii) on April 27, 1979, such legislation was amended to authorize local governmental units to issue tax-exempt obligations,

(iii) before June 13, 1979, such legislation was enacted and a local governmental unit in such State held a referendum with respect to the issuance of obligations to finance owner-occupied residences, and

(iv) any action with respect to the issuance of such obligations by the governing body of such local governmental unit would have met the requirements of paragraph (1) if such legislation had been in effect, and such referendum had been held, when that action was taken,

then such legislation shall be treated as in effect, and such referendum shall be treated as having been held, at the time when such action was taken.

(B) DOLLAR LIMIT FOR LOCAL GOVERNMENTAL UNITS.—The aggregate amount of obligations which may be issued by local governmental units with respect to the area comprising any local governmental area by reason of subparagraph (A) may not exceed—

(i) $35,000,000, reduced by

(ii) the aggregate amount of obligations which are issued (before, on, or after the issue under this paragraph) by local governmental units with respect to such area after April 24, 1979, and to which the amendments made by this subtitle do not apply solely by reason of this subsection (determined without regard to the application of subparagraph (A) of this paragraph).

(C) MORTGAGE REQUIREMENTS.—Subparagraph (A) shall not apply with respect to any issue unless such issue meets the requirements of paragraph (3)(A) of subsection (c).

(5) CERTAIN LOCAL ACTION PURSUANT TO LEGISLATION ENACTED BEFORE SEPTEMBER 29, 1979.—

(A) IN GENERAL.—For purposes of paragraph (1), if—

(i) on April 25, 1979, legislation was pending in a State legislature authorizing a local governmental unit to issue tax-exempt obligations for owner-occupied residences,

(ii) before September 29, 1979, such legislation was enacted, and

(iii) any action with respect to the issuance of such obligations by the local governing body would have met the requirements of paragraph (1) if such legislation had been in effect when that action was taken,

then such legislation shall be treated as in effect at the time when such action was taken.

(B) DOLLAR LIMIT FOR LOCAL GOVERNMENTAL UNITS.—The aggregate amount of obligations which may be issued by local governmental units with respect to the area comprising any local governmental area by reason of subparagraph (A) may not exceed the lesser of—

(i) the aggregate amount authorized by the legislation referred to in subparagraph (A), or

(ii) $150,000,000.

(C) MORTGAGE REQUIREMENTS.—Subparagraph (A) shall not apply with respect to any issue unless such issue meets the requirements of paragraph (3)(A) of subsection (c).

(c) $150,000,000 EXCEPTION FOR STATE HOUSING FINANCE AGENCIES.—

(1) IN GENERAL.—To the extent of the limit set forth in paragraph (2), the amendments made by this subtitle shall not apply to obligations issued by a State housing finance agency.

(2) DOLLAR LIMIT FOR STATE HOUSING FINANCE AGENCIES.—The aggregate amount of obligations which may be issued by State housing finance agencies with respect to any State by reason of paragraph (1) may not exceed—

(A) $150,000,000, reduced by

(B) the aggregate amount of obligations which are issued (before, on, or after the issue under this subsection) by the housing finance agencies of such State after April 24, 1979, to finance owner-occupied residences and to which the amendments made by this subtitle do not apply solely by reason of subsection (b).

(3) COMMITMENTS.—Paragraph (1) shall not apply with respect to any issue unless substantially all of the proceeds of such issue (exclusive of issuance costs and a reasonably required reserve)—

(A) are to be used to provide owner-financing for 1 to 4 family residences (1 unit of which is owner-occupied) and not to acquire or replace existing mortgages (within the meaning of section 103A(j)(2) of the Internal Revenue Code of 1954), and

(B) are committed by firm commitment letters (similar to those used in owner-financing not provided by tax-exempt bonds) to owner-financing before January 1, 1981.

(4) SPECIAL RULE FOR ACTION IN 1978 PURSUANT TO MORTGAGE PROGRAM ESTABLISHED IN 1970.—

(A) IN GENERAL.—If—

(i) in 1970 State legislation established a program to issue tax-exempt obligations to finance the purchase of existing mortgages from financial institutions,

(ii) in August 1978, as a step toward issuing obligations under such program, the governing body of the housing agency administering the program made a finding that there was a shortage of mortgage funds within the State,

(iii) moneys received by any financial institution on the purchase of mortgages will be reinvested within 90 days in new mortgages, and

(iv) the issue meets the requirements of subparagraphs (B) and (C),

then paragraph (3) shall not apply with respect to an issue of obligations pursuant to the program referred to in clause (i) and the finding referred to in clause (ii).

(B) Downpayment requirement.—An issue meets the requirements of this subparagraph only if 75 percent or more of the financing provided under the issue is financing for residences where such financing constitutes 95 percent or more of the acquisition cost of the residences.

(C) Targeted area requirement.—An issue meets the requirements of this subparagraph only if at least 20 percent of the financing provided under the issue is owner-financing of targeted area residences. For purposes of the preceding sentence, the term "targeted area residence" means a residence in an area which is a census tract in which 70 percent or more of the families have income which is 80 percent or less of the statewide median family income (determined on the basis of the most recent decennial census for which data are available).

(D) Dollar limit.—The aggregate amount of obligations which may be issued by a State housing authority by reason of subparagraph (A) may not exceed $125,000,000.

(d) Special Rules.—

(1) Court action was pending to determine scope of authorizing legislation.—

(A) In general.—If—

(i) before April 25, 1979, a State had enacted a law under which counties were authorized to establish public trusts to issue tax-exempt obligations for public purposes,

(ii) on such date the question of whether or not that law authorized the issuance of obligations to finance certain owner-occupied residences was being litigated in a court of competent jurisdiction,

(iii) before July 31, 1979, the Supreme Court of such State held that the counties were so authorized, and

(iv) there is written evidence (which was in existence before April 25, 1979) that before April 25, 1979, the governing body of a county in such State had taken action indicating an intent to issue (or to establish a program for issuing) tax-exempt obligations to finance owner-occupied residences,

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then the amendments made by section 1102 shall not apply to obligations issued by the public trust for such county.

(B) DOLLAR LIMIT.—The aggregate amount of obligations which may be issued with respect to any county by reason of subparagraph (A) may not exceed $50,000,000.

(2) STATE LEGISLATION ENACTED BEFORE JUNE 8, 1979, WHERE LOCALITY HAD ESTABLISHED INCOME LIMITATIONS BEFORE APRIL 25, 1979.—

(A) IN GENERAL.—If—

(i) on April 25, 1979, legislation was pending in a State legislature authorizing a local governmental unit to issue tax-exempt obligations for owner-occupied residences,

(ii) there is written evidence (which was in existence before April 25, 1979) that before April 25, 1979, the governing body of the local governmental unit had taken action indicating to its delegation to the State legislature what the income limitation would be for individuals who would be eligible for mortgages under the program, and

(iii) before June 8, 1979, the legislation referred to in clause (i) was enacted,

then the amendments made by section 1102 shall not apply to obligations issued by the local governmental unit.

(B) DOLLAR LIMIT.—The aggregate amount of obligations which may be issued with respect to any local governmental area by reason of subparagraph (A) may not exceed $150,000,000.

(3) RESOLUTIONS BEFORE CITY COUNCIL BEFORE ENACTMENT OF STATE AUTHORIZING LEGISLATION.—

(A) IN GENERAL.—If—

(i) before April 25, 1979, 2 resolutions were submitted to a city council the first of which would create an urban residential finance authority and the second of which would authorize the appointment of the members of such authority,

(ii) at the time such resolutions were submitted, State authorizing legislation had not been enacted,

(iii) before April 25, 1979, the State authorizing legislation was enacted, and

(iv) after April 24, 1979, and before May 17, 1979, a resolution was adopted by the city council which created an urban residential finance authority and which authorized the appointment of members of the authority,

then the amendments made by section 1102 shall not apply with respect to obligations issued on behalf of such city.

(B) DOLLAR LIMIT.—The aggregate amount of obligations which may be issued with respect to any city by reason of subparagraph (A) may not exceed $50,000,000.

(4) SPECIAL RULE WHERE CITY POSTPONED SECOND HALF OF AUTHORIZED ISSUE TO SAVE INTEREST.—If—

(A) on March 28, 1979, the council of a city adopted a resolution authorizing the issuance of not to exceed $30,000,000 of mortgage revenue bonds,

(B) on or about August 1, 1979, approximately one-half of the obligations authorized by such resolution were issued, and

(C) the reason why the remaining obligations were not issued at that time was to save interest payments until the money was actually needed,

then the amendments made by section 1102 shall not apply with respect to the issuance of the remaining obligations which were authorized by such March 28, 1979, resolution.

(5) STATE WAS IN PROCESS OF PERMITTING LOCALITIES TO ESTABLISH NONPROFIT CORPORATIONS.—

(A) IN GENERAL.—If—

(i) a State law enacted after April 24, 1979, and before June 16, 1979, provides that local governments may establish nonprofit corporations to issue tax-exempt obligations to finance owner-occupied residences,

(ii) pursuant to such State law, a local government establishes such a nonprofit corporation and designates it for purposes of this subsection, and

(iii) on November 7 or 14, 1979, an amount was specified by or for the local government as the maximum amount of obligations which the local government expected the nonprofit corporation to issue with respect to the area under any transitional authority provided by this subtitle,

then the amendments made by section 1102 shall not apply to obligations issued by the nonprofit corporation with respect to the area for which such local government has jurisdiction.

(B) DOLLAR LIMITS.—The aggregate amount of obligations which may be issued with respect to any area by reason of subparagraph (A) may not exceed the amount referred to in subparagraph (A)(iii) which was specified on November 7 or 14, 1979, by or for the local government.

(C) SUBSTITUTION OF HOUSING AUTHORITIES, ETC.—For purposes of applying so much of paragraph (7) as relates to subparagraph (A)—

(i) if the local housing authority had the intent referred to in paragraph (7), such local housing authority shall be substituted for the local government, and

(ii) if the governing body of the local government is a commissioners court, the county judge who was on April 24, 1979, the presiding officer of such court shall be treated as the governing body of such government.

(6) OBLIGATIONS ISSUED UNDER THIS SUBSECTION MUST MEET THE REQUIREMENTS OF SUBSECTION (c)(3).—No obligation may be issued under this subsection unless the issue meets the requirements of subsection (c)(3).

(7) GOVERNING BODY MUST FILE AFFIDAVITS SHOWING INTENT ON APRIL 24, 1979.—No obligation may be issued under this subsection with respect to any area unless a majority of the members of the governing body of the local governmental unit having jurisdiction over that area file affidavits with the Secretary of the Treasury (or his delegate) indicating that it was

their intent on April 24, 1979, either that tax-exempt obligations be issued to provide financing for owner-occupied residences or that a program be established to issue such obligations.

(8) LIMITATIONS REDUCED BY CERTAIN PRIOR ISSUES.—Any limitation on the amount of obligations which may be issued by any issuer by reason of any paragraph of this subsection shall be reduced by the aggregate amount of obligations which are issued (before, on, or after the issue under this subsection) by local governmental units with respect to the area within the jurisdiction of such issuer after April 24, 1979, and to which the amendments made by this subtitle do not apply solely by reason of subsection (b).

(e) ONGOING LOCAL PROGRAMS FOR REHABILITATION LOANS.—

(1) IN GENERAL.—If before April 25, 1979, a local governmental unit had a qualified rehabilitation loan program, then the amendments made by this subtitle shall not apply to obligations issued by such governmental unit for qualified loans if substantially all of the proceeds of such issue (exclusive of issuance costs and a reasonably required reserve) are committed by firm commitment letters (similar to those used in owner financing not provided by tax-exempt bonds) to qualified loans before January 1, 1981.

(2) LIMITATION.—The aggregate amount of obligations which may be issued by reason of paragraph (1) by local governmental units with respect to the area comprising any local governmental area may not exceed the lesser of—

(A) $10,000,000, or

(B) the aggregate amount of loans made with respect to that area under the qualified rehabilitation loan program during the period beginning on January 1, 1977, and ending on April 24, 1979.

The limitation established by the preceding sentence shall be reduced by the aggregate amount of obligations (if any) which are issued (before, on, or after the issue under this subsection) under the qualified rehabilitation loan program after April 24, 1979, with respect to the same local governmental area and to which the amendments made by this subtitle do not apply solely by reason of subsection (b).

(3) QUALIFIED REHABILITATION LOAN PROGRAM.—For purposes of this subsection, the term "qualified rehabilitation loan program" means a program for the financing—

(A) of alterations, repairs, and improvements on or in connection with an existing residence by the owner thereof, but

(B) only of such items as substantially protect or improve the basic livability of the property.

(4) QUALIFIED LOAN.—For purposes of this subsection, the term "qualified loan" means the financing—

(A) of alterations, repairs, and improvements on or in connection with an existing 1 to 4 family residence (1 unit of which is owner-occupied) by the owner thereof, but

(B) only of such items as substantially protect or improve the basic livability of the property.

(5) Dollar limit on qualified loans.—For purposes of this subsection, a loan shall not be treated as a qualified loan if the financing is in an amount which exceeds $20,000 plus $2,500 for each unit in excess of 1.

(f) $50 Per Capita Exception for Local Governments.—

(1) In general.—To the extent of the limit set forth in paragraph (2), the amendments made by section 1102 shall not apply to mortgage subsidy bonds issued by local governmental units after April 24, 1979.

(2) Limit.—

(A) In general.—The aggregate amount of obligations issued with respect to any area by reason of paragraph (1) shall not exceed—

(i) the amount equal to the product of $50 and the population of that area, reduced by

(ii) the aggregate amount of obligations which are issued (before, on, or after the issue under this subsection) by local governmental units after April 24, 1979, with respect to that area and to which the amendments made by this subtitle do not apply solely by reason of subsections (b), (d), and (e).

(B) Determination of population.—For purposes of subparagraph (A), the population of any area shall be the population as of July 1, 1976, as determined for purposes of the State and Local Fiscal Assistance Act of 1972.

(3) Unit must establish that action was taken before April 25, 1979.—Paragraph (1) shall not apply with respect to any obligation issued by any local governmental unit unless—

(A) there is written evidence (which was in existence before April 25, 1979) that before April 25, 1979, the governing body of such local governmental unit had taken action indicating an intent to issue (or to establish a program for issuing) tax-exempt obligations to finance owner-occupied residences,

(B) on October 30, 1979, such local governmental unit had authority to issue obligations to finance owner-occupied residences, and

(C) a majority of the members of the governing body of the local governmental unit file with the Secretary of the Treasury (or his delegate) affidavits that the requirement of such subparagraph (A) is met.

For purposes of subparagraph (A), action of the governing body of a second local governmental unit with respect to the same area shall be treated as action of the issuing governmental unit.

(4) Commitments.—Paragraph (1) shall not apply with respect to any issue unless such issue meets the requirements of paragraph (3) of subsection (c).

(5) Overlapping jurisdictions.—For purposes of this subsection, if 2 or more local governmental units meet the requirements of paragraph (3) and have authority to issue mortgage subsidy bonds with respect to residences in the same area, only the unit having jurisdiction over the smallest geographical area shall be treated as having issuing authority with respect to such area unless such unit agrees to surrender part or all of the amount permitted under this subsection to the local governmen-

tal unit with overlapping jurisdiction which has the next smallest geographical area.

(g) Rollover of Existing Tax-Exempt Obligations.—

(1) In general.—The amendments made by sections 1102 and 1103 shall not apply to the issuance of obligations to refinance for the same purpose tax-exempt indebtedness which was outstanding on April 24, 1979 (or indebtedness which had previously been refinanced pursuant to this subsection), but only if—

(A) on April 24, 1979, there was an agreed on period for the maturity of the mortgages or other financing, and

(B) the new obligations have a maturity date which does not exceed by more than 2 years the agreed on period referred to in subparagraph (A).

(2) Amounts for reserves, issue costs, etc.—An issue which otherwise meets the requirements of paragraph (1) shall not be treated as failing to meet such requirements solely because the amount of the new indebtedness exceeds the amount of the old indebtedness by such amount as is reasonably necessary to cover construction period interest, reserves, and the costs of issuing the new indebtedness.

(h) Special Rules for Projects Under Development.—

(1) Rental housing.—The amendment made by section 1103 shall not apply to a project which was in the development stage on April 24, 1979, if—

(A) a plan specifying the number and location of rental units was approved on or before such date by a governing body of a State or local government or by a State or local housing agency or similar agency, and

(B) substantial expenditures for site improvement for the project had been incurred on or before such date.

(2) Rental housing projects approved by Secretary of HUD.—The amendment made by section 1103 shall not apply to a project which was in the development stage on April 24, 1979, if—

(A) a plan specifying the number and location of rental units was preliminarily approved by the Secretary of Housing and Urban Development pursuant to section 221(d)(4) or section 232 of the National Housing Act on or before such date, and

(B) fees for processing the project with the Department of Housing and Urban Development and other expenditures for the project had been incurred on or before such date.

(3) Owner-occupied housing.—The amendments made by section 1102 shall not apply to a project which was in the development stage on April 24, 1979, if on or before such date—

(A) substantial expenditures had been made for detailed plans and specifications, and

(B) either tax-exempt construction financing had been issued with respect to the project or there is written evidence that a governmental unit intended to issue tax-exempt obligations to finance the acquisition of the units by home buyers.

The amendment made by section 1103 shall not apply to construction or other initial temporary financing issued with respect to a project which meets the requirements of the preceding

sentence if substantially all of the dwelling units in such project are to be owner-occupied residences.

(4) Certain redevelopment mortgage bond financing projects.—Subparagraph (B) of paragraph (3) shall be treated as satisfied if, before April 25, 1979—

(A) the developer of a project acquired the land for such project,

(B) there was approval by the mayor's advisory committee of a city of a comprehensive proposal (under a State law authorizing tax-exempt obligations for use only in redevelopment areas) for such project, subject to revisions to be made, and

(C) a revised proposal was submitted to the redevelopment agency and city council containing the revisions.

The aggregate amount of obligations which may be issued by local governmental units with respect to the area comprising any local governmental area by reason of this paragraph may not exceed $20,000,000.

(i) Registration Requirements.—

(1) In general.—Notwithstanding any other provision of this section, the amendments made by sections 1102 and 1103, insofar as they require obligations to be in registered form, shall apply to obligations issued after December 31, 1981.

(2) Bonds under transitional rules.—Any obligation issued after December 31, 1981, by reason of this section shall be in registered form.

(j) Advance Refunding.—Notwithstanding any other provision of this section—

(1) subsection (n) of section 103A of the Internal Revenue Code of 1954 (as added by section 1102) shall apply to obligations issued after the date of the enactment of this Act to refund obligations issued before, on, or after such date of enactment, and

(2) this section shall not apply to obligations issued after such date of enactment for the advance refunding of obligations issued before, on, or after such date of enactment.

(k) Transitional Rule for Low- and Moderate-Income Requirement.—In the case of obligations issued after April 24, 1979, and before January 1, 1984, the period for which the low- and moderate-income requirements of section 103(b)(4)(A) of the Internal Revenue Code of 1954 (as amended by section 1103 of this subtitle) is required to be met shall be 20 years.

(l) Substitution of Governmental Instrumentality for City.—

(1) In general.—If—

(A) a corporation was created on June 17, 1971, pursuant to State law to provide financing for the construction and rehabilitation of low-income housing,

(B) pursuant to a State law enacted in 1955 a city has made loans to housing developers from the proceeds of short-term bonds and notes issued by the city, and has secured 50-year mortgages from the developers, and

(C) the corporation agrees to acquire from the city certain of the loans referred to in subparagraph (B) by issuing obligations which will be secured by mortgages referred to in

subparagraph (B) on 12 projects (11 of which projects are subsidized with interest-reduction subsidies under section 236 of the National Housing Act),

then the amendments made by this subtitle shall not apply to obligations issued by the corporation to acquire the loans (and mortgages) referred to in subparagraph (C).

(2) DOLLAR LIMIT.—The aggregate amount of obligations to which paragraph (1) applies shall not exceed $135,000,000.

(3) TIME LIMIT.—Paragraph (1) shall not apply to any obligation issued after December 31, 1980.

(m) STATE LEGISLATION WAS PENDING ON APRIL 1, 1979, AND ENACTED ON APRIL 26, 1979, WHERE LOCALITY HAD TAKEN ACTION TO UNDERTAKE A STUDY OF LOCAL MORTGAGE MARKET.—

(1) IN GENERAL.—If—

(A) on April 1, 1979, legislation was pending in a State legislature limiting the authority of local governments within such State to issue tax-exempt obligations for owner-occupied residence under existing home rule authority, and such legislation was enacted on April 26, 1979,

(B) there is written evidence (which was in existence before April 25, 1979) that not earlier than June 1, 1978, but before April 25, 1979, the governing body of a local government in such State had taken action authorizing the undertaking of a demographic or related study of the local mortgage market, which study was intended to serve as a basis for issuance of tax exempt obligations for owner-occupied residences,

(C) on December 20, 1979, an amount was specified by or for the local government as the range of obligations which it expected to issue with respect to the area under any transitional authority provided by the Act, and

(D) a majority of the members of the governing body of the local government certify that the city or county was waiting enactment of the legislation described in subparagraph (A) prior to determining to proceed towards the issuance of tax-exempt obligations for owner-occupied residences.

then the amendments made by section 1102 shall not apply to obligations issued by such city or county.

(2) DOLLAR LIMITS.—The aggregate amount of obligations which may be issued with respect to any area by reason of subparagraph may not exceed the maximum amount referred to in paragraph (1)(C) which was specified on December 20, 1979, by or for such local government.

(3) TIME LIMITS.—Paragraph (1) shall not apply with respect to any issue unless substantially all of the proceeds of such issue (exclusive of issuance costs and a reasonably required reserve) are committed by firm commitment letters (similar to those used in owner-financing not provided by tax-exempt bonds) to owner-financing before January 1, 1982.

(n) CERTAIN ADDITIONAL TRANSITIONAL AUTHORITY.—

(1) IN GENERAL.—The amendments made by sections 1102 and 1103 shall not apply to issues described in the following table:

City or county	Ceiling amount	Purpose of issue
Baltimore, Maryland	$100,000,000	Financing owner-occupied residences.
Port Arthur, Texas	175,000,000	For financing on New Town In Town project.
Minneapolis, Minnesota	25,000,000	Financing owner-occupied residences.
Minneapolis-St. Paul, Minnesota	235,000,000	Joint program for financing owner-occupied residences involving some UDAG grants and private financing.
Detroit, Michigan	50,000,000	To issue obligations maturing before 1986 for construction on the Riverfront West project.
Brevard County, Florida	150,000,000	Financing owner-occupied residences.
Chicago, Illinois	235,000,000	For financing on the Presidential Towers project.

(2) Issuing authority.—The authority granted by this subsection with respect to any city or county may be used only by the appropriate issuing authority for that city or county.

(3) Ceiling amount.—The ceiling amount specified in paragraph (1) with respect to any item shall be the maximum aggregate amount of obligations which may be issued by the appropriate issuing authority under the authority granted by such item.

(4) Purpose.—the authority under any item may be used to issue obligations only for the purpose set forth in paragraph (1) for such item.

(o) Special Rule for Loans to Lenders Program.—

(1) In general.—In the case of any obligations issued during 1981 or 1982 pursuant to a qualified loans to lender program—

(A) the amendments made by section 1103 shall not apply,

(B) subsection (i) of section 103A of the Internal Revenue Code of 1954 (other than the last sentence of paragraph (1) of such subsection) shall not apply, and

(C) the determination of whether the requirements of subsections (d), (e), (f), (h), (j)(2), and (j)(3) of such section 103A are met with respect to such issue shall be made by taking into account the loans made by the financial institutions with the funds provided by the issue (in lieu of the mortgages acquired from the financial institutions with the proceeds of the issue).

(2) Qualified loans to lender program.—For purposes of paragraph (1), the term "qualified loans to lender program" means any program established pursuant to legislation enacted by New York State in 1970 which finances the purchase of existing mortgages from financial institutions and requires any money received by a financial institution on the purchase of a mortgage to be reinvested within 90 days in new mortgages.

Subtitle B—Cash Management

SEC. 1111. ESTIMATED INCOME TAX PAYMENTS BY CORPORATIONS.

(a) General Rule.—Section 6655 of the Internal Revenue Code of 1954 (relating to failure by corporation to pay estimated income tax)

is amended by adding at the end thereof the following new subsection:

"(h) LARGE CORPORATIONS REQUIRED TO PAY AT LEAST 60 PERCENT OF CURRENT YEAR TAX.—

"(1) IN GENERAL.—In the case of a large corporation, the amount treated as the estimated tax for the taxable year under paragraphs (1) and (2) of subsection (d) shall in no event be less than 60 percent of—

"(A) the tax shown on the return for the taxable year, or

"(B) if no return was filed, the tax for such year.

"(2) LARGE CORPORATION.—For purposes of this subsection, the term 'large corporation' means any corporation if such corporation (or any predecessor corporation) had taxable income of $1,000,000 or more for any taxable year during the testing period.

"(3) RULES FOR APPLYING PARAGRAPH (2).—

"(A) TESTING PERIOD.—For purposes of this subsection, the term 'testing period' means the 3 taxable years immediately preceding the taxable year involved.

"(B) MEMBERS OF CONTROLLED GROUPS.—For purposes of applying paragraph (2) to any taxable year in the testing period with respect to corporations which are component members of a controlled group of corporations for such taxable year, the $1,000,000 amount specified in paragraph (2) shall be divided among such members under rules similar to the rules of section 1561."

(b) TECHNICAL AMENDMENT.—Subsection (e) of section 6655 of such Code is amended by striking out "subsections (b) and (d)" and inserting in lieu thereof "subsections (b), (d), and (h)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1980.

Subtitle C—Taxation of Foreign Investment in United States Real Property

SEC. 121. SHORT TITLE

This subtitle may be cited as the "Foreign Investment in Real Property Tax Act of 1980".

SEC. 1122. TAX ON DISPOSITION OR FOREIGN INVESTMENT IN UNITED STATES REAL PROPERTY.

(a) IN GENERAL.—Subpart C of part II of subchapter N of chapter 1 of the Internal Revenue Code of 1954 (relating to miscellaneous provisions with respect to nonresident aliens and foreign corporations) is amended by adding at the end thereof the following new section:

"SEC. 897. DISPOSITION OF INVESTMENT IN UNITED STATES REAL PROPERTY.

"(a) GENERAL RULE.—

"(1) TREATMENT AS EFFECTIVELY CONNECTED WITH UNITED STATES TRADE OR BUSINESS.—For purposes of this title, gain or loss of a nonresident alien individual or a foreign corporation from the disposition of a United States real property interest shall be taken into account—

"(A) in the case of a nonresident aline individual, under section 871(B)(1), or

"(B) in the case of a foreign corporation, under section 882(a)(1),

as if the taxpayer were engaged in a trade or business within the United States during the taxable year and as if such gain or loss were effectively connected with such trade or business.

"(2) 20-PERCENT MINIMUM TAX ON NONRESIDENT ALIEN INDIVIDUALS.—

"(A) IN GENERAL.—In the case of any nonresident alien individual, the amount determined under section 55(a)(1)(A) for the taxable year shall not be less than 20 percent of whichever of the following is the least:

"(i) the individual's alternative minimum taxable income (as defined in section 55(b)(1)) for the taxable year,

"(ii) the individual's net United States real property gain for the taxable year, or

"(iii) $60,000.

"(B) NET UNITED STATES REAL PROPERTY GAIN.—For purposes of subparagraphs (A), the term 'net United States real property gain' means the excess of—

"(i) the aggregate of the gains for the taxable year from dispositions of United States real property interests, over

"(ii) the aggregate of the losses for the taxable year from dispositions of such interests.

"(b) LIMITATION ON LOSSES OF INDIVIDUALS.—In the case of an individual, a loss shall be taken into account under subsection (a) only to the extent such loss would be taken into account under section 165(c) (determined without regard to subsection (a) of this section).

"(c) UNITED STATES REAL PROPERTY INTEREST.—For purposes of this section—

"(1) UNITED STATES REAL PROPERTY INTEREST.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'United States real property interest' means—

"(i) an interest in real property (including an interest in a mine, well, or other natural deposit) located in the United States, and

"(ii) any interest (other than an interest solely as a creditor) in any domestic corporation unless the taxpayer establishes (at such time and in such manner as the Secretary by regulations prescribes) that such corporation was at no time a United States real property holding corporation during the shorter of

"(I) the period after June 18, 1980, during which the taxpayer held such interest, or

"(II) the 5-year period ending on the date of the disposition of such interest.

"(B) EXCLUSION FOR INTEREST IN CERTAIN CORPORATIONS.—The term 'United States real property interest' does not include any interest in a corporation if—

"(i) as of the date of the disposition of such interest, such corporation did not hold any United States real property interests, and

"(ii) all of the United States real property interests held by such corporation at any time during the shorter of the periods described in subparagraph (A)(ii)—

"(I) were disposed of an transactions in which the full amount of the gain (if any) was recognized, or

"(II) ceased to be United States real property interests by reason of the application of this subparagraph to 1 or more other corporations.

"(2) UNITED STATES REAL PROPERTY HOLDING CORPORATION.—The term 'United States real property holding corporation' means any corporation if—

"(A) the fair market value of its United States real property interests equals or exceeds 50 percent of

"(B) the fair market value of—

"(i) its United States real property interests,

"(ii) its interests in real property located outside the United States, plus

"(iii) any other of its assets which are used or held for use in a trade or business.

"(3) EXCEPTION FOR STOCK REGULARLY TRADED ON ESTABLISHED SECURITIES MARKETS.—If any class of stock of a corporation is regularly traded on an established securities market, stock of such class shall be treated as a United States real property interest only in the case of a person who, at some time during the shorter of the periods described in paragraph (1)(A)(ii), held more than 5 percent of such class of stock.

"(4) INTERESTS HELD BY FOREIGN CORPORATIONS AND BY PARTNERSHIPS, TRUSTS, AND ESTATES.—For purpose of determining whether any corporation is a United States real property holding corporation—

"(A) FOREIGN CORPORATIONS.—Paragraph (1)(A)(ii) shall be applied by substituting 'any corporation (whether foreign or domestic)' for 'any domestic corporation'.

"(B) INTERESTS HELD BY PARTNERSHIPS, ETC.—United States real property interests held by a partnership, trust, or estate shall be treated as owned proportionately by its partners or beneficiaries.

"(5) TREATMENT OF CONTROLLING INTERESTS.—

"(A) IN GENERAL.—Under regulations, for purposes of determining whether any corporation is a United States real property holding corporation, if any corporation (hereinafter in this paragraph referred to as the 'first corporation') holds a controlling interest in a second corporation—

"(i) the stock which the first corporation holds in the second corporation shall not be taken into account,

"(ii) the first corporation shall be treated as holding a portion of each asset of the second corporation equal to the percentage of the fair market value of the stock of the second corporation represented by the stock held by the first corporation, and

"(iii) any asset treated as held by the first corporation by reason of clause (ii) which is used or held for use by the second corporation in a trade or business

shall be treated as so used or held by the first corporation.

Any asset treated as held by the first corporation by reason of the preceding sentence shall be so treated for purposes of applying the preceding sentence successively to corporations which are above the first corporation in a chain of corporations.

"(B) CONTROLLING INTEREST.—For purposes of subparagraph (A), the term 'controlling interest' means 50 percent or more of the fair market value of all classes of stock of a corporation.

"(6) OTHER SPECIAL RULES.—

"(8) INTEREST IN REAL PROPERTY.—The term 'interest in real property' includes fee ownership and co-ownership of land or improvements thereon, leaseholds of land or improvements thereon, options to acquire land or improvements thereon, and options to acquire leaseholds of land or improvements thereon.

"(B) REAL PROPERTY INCLUDES ASSOCIATED PERSONAL PROPERTY.—The term 'real property' includes movable walls, furnishings, and other personal property associated with the use of the real property.

"(C) CONSTRUCTIVE OWNERSHIP RULES.—For purposes of determining under paragraph (3) whether any person holds more than 5 percent of any class of stock and of determining under paragraph (5) whether a person holds a controlling interest in any corporation, section 318(a) shall apply (except that paragraphs (2)(C) and (3)(C) of section 318(a) shall be applied by substituting '5 percent' for '50 percent').

"(d) TREATMENT OF DISTRIBUTIONS, ETC., BY FOREIGN CORPORATIONS.—

"(1) DISTRIBUTIONS.—

"(A) IN GENERAL.—Except to the extent otherwise provided in regulations, notwithstanding any other provision of this chapter, gain shall be recognized by a foreign corporation on the distribution (including a distribution in liquidation or redemption) of a United States real property interest in an amount equal to the excess of the fair market value of such interest (as of the time of the distribution) over its adjusted basis.

"(B) EXCEPTION WHERE THERE IS A CARRYOVER BASIS.—Subparagraph (A) shall not apply if the basis of the distributed property in the hands of the distributee is the same as the adjusted basis of such property before the distribution increased by the amount of any gain recognized by the distributing corporation.

"(2) SECTION 337 NOT TO APPLY.—Section 337 shall not apply to any sale or exchange of a United States real property interest by a foreign corporation.

"(e) COORDINATION WITH NONRECOGNITION PROVISIONS.—

"(1) IN GENERAL.—Except to the extent otherwise provided in subsection (d) and paragraph (2) of this subsection, any nonrecognition provision shall apply for purposes of this section to a transaction only in the case of an exchange of a United States

real property interest for an interest the sale of which would be subject to taxation under this chapter.

"(2) REGULATIONS.—The Secretary shall prescribe regulations (which are necessary or appropriate to prevent the avoidance of Federal income taxes) providing—

"(A) the extent to which nonrecognition provisions shall, and shall not, apply for purposes of this section, and

"(B) the extent to which—

"(i) transfers of property in reorganization, and

"(ii) changes in interests in, or distributions from, a partnership, trust, or estate,

shall be treated as sales of property at fair market value.

"(3) NONRECOGNITION PROVISION DEFINED.—For purposes of this subsection, the term 'nonrecognition provision' means any provision of this title for not recognizing gain or loss.

"(f) DISTRIBUTIONS BY DOMESTIC CORPORATIONS TO FOREIGN SHAREHOLDERS.—If a domestic corporation distributes a Unted States real property interest to a nonresident alien individual or a foreign corporation in a distribution to which section 301 applies, notwithstanding any other provision of this chapter, the basis of such United States real property interest in the hands of such nonresident alien individual or foreign corporation shall not exceed—

"(1) the adjusted basis of such property before the distribution, increased by

"(2) the sum of—

"(A) any gain recognized by the distributing corporation on the distribution, and

"(B) any tax paid under this chapter by the distributee on such distribution.

"(g) SPECIAL RULE FOR SALES OF INTEREST IN PARTNERSHIPS, TRUSTS, AND ESTATES.—Under regulations prescribed by the Secretary, the amount of any money, and the fair market value of any property, received by a nonresident alien individual or foreign corporation in exchange for all or part of its interest in a partnership, trust, or estate shall, to the extent attributable to United States real property interests, be considered as an amount received from the sale or exchange in the United States of such property.

"(h) SPECIAL RULES FOR REITS.—For purposes of this section—

"(1) LOOK-THROUGH OF DISTRIBUTIONS.—Any distribution by a REIT to a nonresident alien individual or a foreign corporation shall, to the extent attributable to gain from sales or exchanges by the REIT of United States real property interests, be treated as gain recognized by such nonresident alien individual or foreign corporation from the sale or exchange of a United States real property interest.

"(2) SALE OF STOCK IN DOMESTICALLY-CONTROLLED REIT NOT TAXED.—The term 'United States real property interest' does not include any interest in a domestically-controlled REIT.

"(3) DISTRIBUTIONS BY DOMESTICALLY-CONTROLLED REITS.—In the case of a domestically-controlled REIT, rules similar to the rules of subsection (d) shall apply to the foreign ownership percentage of any gain.

"(4) DEFINITIONS.—

"(A) REIT.—The term 'REIT' means a real estate investment trust.

"(B) Domestically controlled reit.—The term 'domestically controlled REIT' means a REIT in which at all times during the testing period less than 50 percent in value of the stock was held directly or indirectly by foreign persons.

"(C) Foreign ownership percentage.—The term 'foreign ownership percentage' means that percentage of the stock of the REIT which was held (directly or indirectly) by foreign persons at the time during the testing period during which the direct and indirect ownership of stock by foreign persons was greatest.

"(D) Testing period.—The term 'testing period' means whichever of the following periods is the shortest:

"(i) the period beginning on June 19, 1980, and ending on the date of the disposition or of the distribution, as the case may be,

"(ii) the 5-year period ending on the date of the disposition or of the distribution, as the case may be, or

"(iii) the period during which the REIT was in existence.

"(i) Election by Foreign Corporation To Be Treated as Domestic Corporation.—

"(1) In general.—If—

"(A) a foreign corporation has a permanent establishment in the United States, and

"(B) under any treaty, such permanent establishment may not be treated less favorably than domestic corporations carrying on the same activities,

then such foreign corporation may make an election to be treated as a domestic corporation for purposes of this section and section 6039C.

"(2) Revocation only with consent.—Any election under paragraph (1), once made, may be revoked only with the consent of the Secretary.

"(3) Making of election.—An election under paragraph (1) may be made only subject to such conditions as may be prescribed by the Secretary."

(b) Clerical Amendment.—The table of sections for such subpart C is amended by adding at the end thereof the following new item:

"Sec. 897. Disposition of investment in United States real property."

(c) Cross References.—

(1) Subsection (g) of section 871 of such Code (relating to tax on income of nonresident alien individuals) is amended by adding at the end thereof the following new paragraph:

"(8) For special tax treatment of gain or loss from the disposition by a nonresident alien individual of a United States real property interest, see section 897."

(2) Subsection (a) of section 882 of such Code (relating to tax on income of foreign corporation connected with United States business) is amended by adding at the end thereof the following new paragraph:

"(3) For special tax treatment of gain or loss from the disposition by a foreign corporation of a United States real property interest, see section 897."

SEC. 1123. REPORTING REQUIREMENTS.

(a) General Rule.—Subpart A of part III of chapter 61 of the Internal Revenue Code of 1954 (relating to information returns concerning persons subject to special provisions) is amended by inserting after section 6039B the following new section:

"SEC. 6039C. RETURNS WITH RESPECT TO UNITED STATES REAL PROPERTY INTERESTS.

"(a) Return of Certain Domestic Corporations Having Foreign Shareholders.—

"(1) General rule.—

"(A) Return requirement.—If this subsection applies to a domestic corporation for the calendar year, such corporation shall make a return for the calendar year setting forth—

"(i) the name and address (if known by the corporation) of each person who was a shareholder at any time during the calendar year and who is known by the corporation to be a foreign person,

"(ii) such information with respect to transfers of stock in such corporation to or from foreign persons during the calendar year as the Secretary may by regulations prescribe, and

"(iii) such other information as the Secretary may by regulations prescribe.

"(B) Corporations to which subsection applies.—This subsection applies to any domestic corporation for the calendar year if—

"(i) at any time during the calendar year 1 or more of the shareholders of such corporation is a foreign person, and

"(ii) at any time during the calendar year or during any of the 4 immediately preceding calendar years, such corporation was a United States real property holding corporation (as defined in section 897(c)(2)).

"(2) Subsection does not apply to publicly traded corporations.—This subsection shall not apply to a corporation the stock of which is regularly traded on an established securities market at all times during the calendar year.

"Stock held by nominees.—If—

"(A) a nominee holds stock in a domestic corporation for a foreign person, and

"(B) such foreign person does not furnish the information required to be furnished pursuant to paragraph (1)(A) with respect to such stock,

the nominee shall file a return under this subsection with respect to such stock.

"(b) Return of Certain Persons Holding United States Real Property Interests.—

"(1) Return requirement.—If any entity to which this subsection applies has at any time during the calendar year a substantial investor in United States real property, such entity shall make a return for the calendar year setting forth—

"(A) the name and address of each such substantial investor.

"(B) such information with respect to the assets of the entity during the calendar year as the Secretary may by regulations prescribe, and

"(C) such other information as the Secretary may by regulations prescribe.

"(2) EXCEPTION WHERE SECURITY FURNISHED.—This subsection shall not apply to any entity for the calendar year if such entity furnishes to the Secretary such security as the Secretary determines to be necessary to ensure that any tax imposed by chapter 1 with respect to United States real property interests held by such entity will be paid.

"(3) STATEMENTS TO BE FURNISHED TO SUBSTANTIAL INVESTOR IN UNITED STATES REAL PROPERTY.—Every entity making a return under paragraph (1) shall furnish to each substantial investor in United States real property a statement showing—

"(A) the name and address of the entity making such return,

"(B) such substantial investor's pro rata share of the United States real property interests held by such entity, and

"(C) such other information as the Secretary shall by regulations prescribe.

"(4) DEFINITIONS.—For purpose of this subsection—

"(A) ENTITIES TO WHICH THIS SUBSECTION APPLIES.—This subsction shall apply to any foreign corporation and to any partnership, trust, or estate (whether foreign or domestic).

"(B) SUBSTANTIAL INVESTOR IN UNITED STATES REAL PROPERTY.—

"(i) IN GENERAL.—The term 'substantial investor in United States real property' means any foreign person who at any time during the calendar year held an interest in the entity but only if the fair market value of such person's pro rata share of the United States real property interests held by such entity exceeded $50,000.

"(ii) SPECIAL RULE FOR CORPORATIONS.—In the case of any foreign corporation, clause (i) shall be applied by substituting 'person (whether foreign or domestic)' for 'foreign person'.

"(C) INDIRECT HOLDINGS.—The assets of any entity to which this subsection applies shall include its pro rata share of the United States real property interests held by any corporation in which the entity is a substantial investor in United States real property.

"(c) RETURN OF CERTAIN FOREIGN PERSONS HOLDING DIRECT INVESTMENTS IN UNITED STATES REAL PROPERTY INTERESTS.—

"(1) RETURN REQUIREMENT.—If this subsection applies to any foreign person for the calendar year, such person shall make a return for the calendar year setting forth—

"(A) the name and address of such person,

"(B) a description of all United States real property interests held by such person at any time during the calendar year, and

"(C) such other information as the Secretary may by regulations prescribe.

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"(2) Persons to whom this subsection applies.—This subsection applies to any foreign person for the calendar year if—

"(A) such person did not engage in a trade or business in the United States at any time during the calendar year,

"(B) the fair market value of the United States real property interests held by such person at any time during such year equals or exceeds $50,000, and

"(C) such person is not required to file a return under subsection (b) of such year.

"(d) Definitions.—For purposes of this section—

"(1) United states real property interest.—The term 'United States real property interest' has the meaning given to such term by section 897(c).

"(2) Foreign person.—The term 'foreign person' means any person who is not a United States person.

"(e) Special Rules.—

"(1) Attribution of ownership.—For purposes of subsections (b)(4) and (c)(2)(B)—

"(A) Interests held by partnerships, etc.—United States real property interests held by a partnership, trust, or estate shall be treated as owned proportionately by its partners or beneficiaries.

"(B) Interests held by family members.—United States real property interests held by the spouse or any minor child of an individual shall be treated as owned by such individual.

"(2) Returns, etc.—All returns, statements, and information required to be made or furnished under this section shall be made or furnished at such time and in such manner as the Secretary shall by regulations prescribe."

(b) Penalty for Failure To File Return, Etc.—Section 6652 of such Code (relating to failure to file certain information returns, registration statements, etc.) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) Returns, Etc., Required Under Section 6039C.—

"(1) In general.—In the case of each failure—

"(A) to make a return required by section 6039C which contains the information required by such section, or

"(B) to furnish a statement required by section 6039C(b)(3),

on the date prescribed therefor (determined with regard to any extnesion of time for filing), unless it is shown that such failure is due to reasonable cause and not to willful neglect, the amount determined under paragraph (2) shall be paid (upon notice and demand by the Secretary and in the same manner as tax) by the person failing to make such retrun or furnish such statement.

"(2) Amount of penalty.—For purposes of paragraph (1), the amount determined under this paragraph with respect to any failure shall be $25 for each day during which such failure continues.

"(3) Limitations.—

"(A) For failure to meet requirements of subsection (a) or (b) of section 6039c.—The amount determined

under paragraph (2) with rerspect to any person for failing to meet the requirements of subsection (a) or (b) of section 6039C for any calendar year shall not exceed $25,000 with respect to each such subsection.

"(B) For failure to meet requirements of section 6039C(c).—The amount determined under paragraph (2) with respect to any person for failing to meet the requirements of subsection (c) of section 6039C for any calendar year shall not exceed the lesser of $25,000 or 5 percent of the aggregate of the fair market value of the United States real property interests owned by such person at any time during such year. For purposes of the preceding sentence, fair market value shall be determined as of the end of the calendar year (or, in the case of any property disposed of during the calendar year, as of the date of such disposition)."

(c) Clerical Amendment.—The table of sections for subpart A of part III of chaptr 61 of such Code is amended by inserting after the item relating to section 6039B the following new item:

"Sec. 6039C. Returns with respect to United States real property interests."

SEC. 1124. SOURCES WITHIN UNITED STATES.

Paragraph (5) of subsection (a) of section 861 of the Internal Revenue Code of 1954 (relating to income from sources within the United States) is amended to read as follows:

"(5) Disposition of United States real property interest.—Gains, profits, and income from the disposition of a United States real property interest (as defined in section 897(c))."

SEC. 1125. EFFECTIVE DATE.

(a) In General.—Except as provided in subsection (b), the amendments made by this subtitle shall apply to dispositions after June 18, 1980.

(b) Reporting.—The amendments made by section 1123 shall apply to 1980 and subsequent calendar years. In applying such amendments to 1980, such calendar year shall be treated as beginning on June 19, 1980, and ending on December 31, 1980.

(c) Special Rule for Treaties.—

(1) In general.—Except as provided in paragraph (2), after December 31, 1984, nothing in section 894(a) or 7852(d) of the Internal Revenue Code of 1954 or in any other provisin of law shall be treated as requiring, by reason of any treaty obligation of the United States, an exemption from (or reduction of) any tax imposed by section 871 or 882 of such Code on a gain described in section 897 of such Code.

(2) Special rule for treaties renegotiated before 1985.—If—

(A) any treaty (hereinafter in this paragraph referrred to as the "old treaty") is renegotiated to resove conflicts between such treaty and the provisions of section 897 of the Internal Revenue Code of 1954, and

(B) the new treaty is signed before January 1, 1985,

then paragraph (1) shall be applied with respect to obligations under the old treaty by substituting for "December 31, 1984" the date (not later than 2 years after the new treaty was signed) specified in the new treaty (or accompanying exchange of notes).

(d) Adjustment in Basis for Certain Transactions Between Related Persons.—

(1) In general.—In the case of any disposition after December 31, 1979, of a United States real property interest (as defined in section 897(c) of the Internal Revenue Code of 1954) to a related person (within the meaning of section 453(f)(1) of such Code), the basis of the interest in the hands of the person acquiring it shall be reduced by the amount of any nontaxed gain.

(2) Nontaxed gain.—For purposes of paragraph (1), the term "nontaxed gain" means any gain which is not subject to tax under section 871(b)(1) or 882(a)(1) of such Code—

(A) because the disposition occurred before June 19, 1980, or

(B) because of any treaty obligation of the United States.

Subtitle D—Credit Against Crude Oil Windfall Profit Tax for Royalty Owners

SEC. 1131. CREDIT AGAINST CRUDE OIL WINDFALL PROFIT TAX FOR ROYALTY OWNERS.

(a) Credit Against Windfall Profit Tax for Royalty Owners.—

(1) In general.—Subchapter B of chapter 65 of the Internal Revenue Code of 1954 (relating to rules of special application for abatements, credits, and refunds) is amended by adding at the end thereof the following new section:

"SEC. 6429. CREDIT AND REFUND OF CHAPTER 45 TAXES PAID BY ROYALTY OWNERS.

"(a) Treatment as Overpayment.—In the case of a qualified royalty owner, that portion of the tax imposed by section 4986 which is paid in connection with qualified royalty production shall be treated as an overpayment of the tax imposed by section 4986.

"(b) Credits and Refunds.—

"(1) In general.—Under regulations prescribed by the Secretary, any amount treated as an overpayment of tax under subsection (a) shall be credited against the tax imposed by section 4986 or refunded to the qualified royalty owner.

"(2) Claim for credit or refund.—Any claim for credit or refund under this section shall be filed in such form and manner, and at such time, as the Secretary may prescribe by regulations.

"(c) $1,000 Limitation on Credit or Refund.—

"(1) In general.—The aggregate amount which may be treated as an overpayment under subsection (a) with respect to any qualified royalty owner shall not exceed $1,000.

"(2) Allocation within a family.—In the case of individuals who are members of the same family (within the meaning of section 4992(e)(3)(C)) at any time during the qualified period, the $1,000 amount in paragraph (1) shall be reduced for each such individual by allocating such amount among all such individuals in proportion to their respective qualified royalty production.

"(3) Allocation between corporations and individuals.—

"(A) In general.—In the case of an individual who owns at any time during the qualified period stock in a

qualified family farm corporation, the $1,000 amount in paragraph (1) applicable to such individual shall be reduced by the amount which bears the same ratio to the credit or refund allowable to the corporation under this section (determined after the application of paragraph (4)) as the fair market value of the shares owned by such individual during such period bears to the fair market value of all shares of the corporation.

"(B) SPECIAL RULE FOR FAMILY MEMBERS.—In the case of individuals who are members of the same family (within the meaning of section 4992(e)(3)(C)) at any time during the qualified period—

"(i) for purposes of subparagraph (A), all such individuals shall be treated as 1 individual, and

"(ii) the amount allocated among such individuals under paragraph (2) shall be $1,000, reduced by the amount determined under subparagraph (A).

"(4) ALLOCATION BETWEEN CORPORATIONS.—If at any time after June 24, 1980, any individual owns stock in two or more qualified family farm corporations, the $1,000 amount in paragraph (1) shall be reduced for each such corporation by allocating such amount all such corporations in proportion to their respective qualified royalty production.

"(d) DEFINITIONS AND SPECIAL RULES.— For purposes of this section—

"(1) QUALIFIED ROYALTY OWNER.—The term 'qualified royalty owner' means a producer (within the meaning of section 4996(a)(1)), but only if such producer is an individual, an estate, or a qualified family farm corporation.

"(2) QUALIFIED ROYALTY PRODUCTION.—The term 'qualified royalty production' means, with respect to any qualified royalty owner, taxable crude oil which—

"(A) is attributable to an economic interest of such royalty owner other than an operating mineral interest (within the meaning of section 614(d)), and

"(B) is removed from the premises during the qualified period.

"(3) QUALIFIED PERIOD.—The term 'qualified period' means the period beginning March 1, 1980, and ending December 31, 1980.

"(4) QUALIFIED FAMILY FARM CORPORATION.—The term 'qualified family farm corporation' means a corporation—

"(A) which was in existence on June 25, 1980,

"(B) all of the outstanding shares of stock of which at all times after June 24, 1980, and before January 1, 1981, were held by members of the same family (within the meaning of section 2032A(e)(2)), and

"(C) 80 percent in value of the assets of which (other than royalty interests described in paragraph (2)(A)) were held by the corporation on such date for use for farming purposes (within the meaning of section 2032A(e)(5)).

"(e) CROSS REFERENCE.—

"For the holder of the economic interest in the case of a production payment, see section 636."

(2) Technical and conforming amendments.—The table of sections for subpart B of chapter 65 of such code is amended by adding at the end thereof the following new item:

"Sec. 6429. Credit and refund of chapter 45 taxes paid by royalty owners."

(d) Denial of Deduction.—

(1) In general.—Part IX of subchapter B of chapter 1 of such Code (relating to items not deductible) is amended by adding at the end thereof the following new section:

"SEC. 280D. PORTION OF CHAPTER 45 TAXES FOR WHICH CREDIT OR REFUND IS ALLOWABLE UNDER SECTION 6429.

"No deduction shall be allowed for that portion of the tax imposed by section 4986 for which a credit or refund is allowable under section 6429."

(2) Conforming amendment.—The table of sections for part IX of subchapter B of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 280D. Portion of chapter 45 taxes for which credit or refund is allowable under section 6429."

(3) Effective date.—The amendments made by this subsection shall apply to taxable years ending after February 29, 1980.

Subtitle E—Inclusion in Wages for Purposes of Social Security and Unemployment Taxes of Employer

SEC. 1141. INCLUSION IN WAGES OF EMPLOYEE TAXES PAID BY EMPLOYER.

(a) Social Security Tax.—

(1) Amendment of internal revenue code of 1954.—Paragraph (6) of section 3121(a) of the Internal Revenue Code of 1954 (defining wages) is amended to read as follows:

"(6) the payment by an employer (without deduction from the remuneration of the employee)—

"(A) of the tax imposed upon an employee under section 3101, or

"(B) of any payment required from an employee under a State unemployment compensation law,

with respect to remuneration paid to an employee for domestic service in a private home of the employer or for agricultural labor;".

(2) Amendment of social security act.—Subsection (f) of section 209 of the Social Security Act is amended to read as follows:

"(f) The payment by an employer (without deduction from the remuneration of the employee)—

"(1) of the tax imposed upon an employee under section 3101 of the Internal Revenue Code of 1954, or

"(2) of any payment required from an employee under a State unemployment compensation law,

with respect to remuneration paid to an employee for domestic service in a private home of the employer or for agricultural labor;".

(b) Federal Unemployment Tax.—Paragraph (6) of section 3306(b) of the Internal Revenue Code of 1954 (defining wages) is amended to read as follows:

"(6) the payment by an employer (without deduction from the renumeration of the employee)—

"(A) of the tax imposed upon an employee under section 3101, or

"(B) of any payment required from an employee under a State unemployment compensation law,

with respect to remuneration paid to an employee for domestic service in a private home of the employer or for agricultural labor;".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to remuneration paid after December 31, 1980.

(2) EXCEPTION FOR STATE AND LOCAL GOVERNMENTS.—

(A) the amendments made by this section (insofar as they affect the application of section 218 of the Social Security Act) shall not apply to any payment made before January 1, 1984, by any governmental unit for positions of a kind for which all or a substantial portion of the social security employee taxes were paid by such governmental unit (without deduction from the remuneration of the employee) under the practices of such governmental unit in effect on October 1, 1980.

(B) For purposes of subparagraph (A), the term "social security employee taxes" means the amount required to be paid under section 218 of the Social Security Act as the equivalent of the taxes imposed by section 3101 of the Internal Revenue Code of 1954.

(C) For purposes of subparagraph (A), the term "Governmental unit" means a State or political subdivision thereof within the meaning of section 218 of the Social Security Act.

Subtitle F—Telephone Tax

SEC. 1151. TELEPHONE TAX CONTINUED AT 2 PERCENT FOR 1981.

(a) IN GENERAL.—The table contained in paragraph (2) of section 4251(a) of the Internal Revenue Code of 1954 (relating to imposition of tax on communication services) is amended by striking out the last 2 lines of such table and inserting in lieu thereof the following:

"During 1980 or 1981	*2*
During 1982	*1".*

(b) CONFORMING AMENDMENT.—Subsection (b) of section 4251 of such Code is amended by striking out "January 1, 1982" and inserting in lieu thereof "January 1, 1983".

Subtitle G—Increase Until 1993 in the Duties on Certain Imports of Ethyl Alcohol

SEC. 1161. INCREASE UNTIL 1993 IN THE DUTIES ON ETHYL ALCOHOL IMPORTED FOR FUEL USE.

(a) AMENDMENTS TO APPENDIX TO TSUS.—

(1) FOR 1981.—Effective with respect to articles entered on or after January 1, 1981, subpart A of part 1 of the Appendix to

the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting in numerical sequence the following new item:

" *901.50*	*Ethyl alcohol (provided for in item 427.88, part 2D, schedule 4) when imported to be used in producing a mixture of gasoline and alcohol or a mixture of a special fuel and alcohol for use as fuel, or when imported to be used otherwise as fuel*	*10¢ per gal.*	*10¢ per gal.*	*On or before 12/31/81* ".

(2) For 1982.—Effective with respect to articles entered on or after January 1, 1982, item 901.50 of the Tariff Schedules of the United States (as added by paragraph (1)) is amended by striking out "10" in columns numbered 1 and 2 and inserting in lieu thereof "20"; and by striking out "12/31/81" and inserting in lieu thereof "12/31/82".

(3) After 1982 and until 1993.—Effective with respect to articles entered on or after January 1, 1983, such item 901.50 is amended by striking out "20" in columns numbered 1 and 2 and inserting in lieu thereof "40", and by striking out "12/31/82" and inserting in lieu thereof "12/31/92".

(b) Definition.—For purposes of subsection (a), the term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States.

And the Senate agree to the same.

For consideration of the entire bill (including title I through title IX of the House bill, section 1 through title IX of the Senate amendment, and the title of the bill):

Robert N. Giaimo,
Thomas L. Ashley,
William M. Brodhead,
Leon E. Panetta,

For title II of the Senate amendment:

From the Committee on Armed Services:

Melvin Price,
Bill Nichols,
Robert H. Mollohan,
Les Aspin,
Bob Wilson,
Donald J. Mitchell,

For title II, subtitle A of the House bill and title I of the Senate amendment:

From the Committee on Education and Labor:

Carl D. Perkins,
Ike Andrews,
George Miller,

For title II, subtitle C of the House bill and title VII of the Senate amendment:

From the Committee on Education and Labor:

Carl D. Perkins,
William D. Ford,
John Brademas,
Mario Biaggi,
John M. Ashbrook,
John Buchanan,

For title IV of the House bill and title VI of the Senate amendment:

From the Committee on Post Office and Civil Service:

JAMES M. HANLEY,
WILLIAM D. FORD,
WILIAM L. CLAY,
EDWARD J. DERWINSKI,
GENE TAYLOR,

For title II, subtitle B of the House bill:

From the Committee on Education and Labor:

CARL D. PERKINS,
EDWARD P. BEARD,
PHILLIP BURTON,
GEORGE MILLER,
JOHN M. ASHBROOK,
JOHN N. ERLENBORN,

For title V, subtitle A of the House bill and section 401 of the Senate amendment:

From the Committee on Public Works and Transportation:

HAROLD T. JOHNSON,
GLENN M. ANDERSON,
JAMES J. HOWARD,
RAY ROBERTS,
BUD SHUSTER,
GENE SNYDER,

For title V, subtitle A of the House bill and section 301 of the Senate amendment; for title V, subtitle B of the House bill and section 302 of the Senate amendment; and for section 304 of the Senate amendment:

From the Committee on Public Works and Transportation:

HAROLD T. JOHNSON,
GLENN M. ANDERSON,
JAMES J. HOWARD,
RAY ROBERTS,
BUD SHUSTER,
GENE SNYDER,

For title III, subtitle C of the House bill and section 303 of the Senate amendment:

From the Committee on Interstate and Foreign Commerce:

HARLEY O. STAGGERS,
JIM SANTINI,
JAMES J. FLORIO,
BARBARA A. MIKULSKI,
JAMES T. BROYHILL,
EDWARD R. MADIGAN,

For title VII of the House bill and title VIII of the Senate amendment:

From the Committee on Veterans' Affairs:

RAY ROBERTS,
DAVID E. SATTERFIELD III,
G. V. MONTGOMERY,
W. G. HEFNER,
JOHN PAUL HAMMERSCHMIDT,
MARGARET M. HECKLER,

For title III, subtitle B of the House bill:

From the Committee on Interstate and Foreign Commerce:

HARLEY O. STAGGERS,
JIM SANTINI,
JAMES J. FLORIO,
BARBARA A. MIKULSKI,
JAMES T. BROYHILL,
EDWARD R. MADIGAN,

From the Committee on Ways and Means:

AL ULLMAN,
DAN ROSTENKOWSKI,
JAMES C. CORMAN,
SAM GIBBONS,
J. J. PICKLE,
CHARLES B. RANGEL,
WILLIAM R. COTTER,

For title III, subtitle A, and title VIII, subtitle A of the House bill, and title V, part F of the Senate amendment:

From the Committee on Interstate and Foreign Commerce:

HARLEY O. STAGGERS,
HENRY A. WAXMAN,
DAVID E. SATTERFIELD III,
RICHARDSON PREYER,
JAMES T. BROYHILL,
TIM LEE CARTER,

From the Committee on Ways and Means:

AL ULLMAN,
DAN ROSTENKOWSKI,
JAMES C. CORMAN,
SAM GIBBONS,
J. J. PICKLE,
CHARLES B. RANGEL,
WILLIAM R. COTTER,
GUY VANDER JAGT,

For title VIII, subtitles B, C, and D of the House bill and title V, parts A, B, C, D, E, and G of the Senate amendment:

From the Committee on Ways and Means:

AL ULLMAN,
DAN ROSTENKOWSKI,
JAMES C. CORMAN,
SAM GIBBONS,
J. J. PICKLE,
CHARLES B. RANGEL,
GUY VANDER JAGT,

For title IX of the House bill and title IX of the Senate amendment:

From the Committee on Ways and Means:

AL ULLMAN,
DAN ROSTENKOWSKI,
JAMES C. CORMAN,
SAM GIBBONS,
J. J. PICKLE,
CHARLES B. RANGEL,
WILLIAM R. COTTER,
GUY VANDER JAGT,

Managers on the Part of the House.

For consideration of the entire bill (including title I through title IX of the House bill, section 1 through title IX of the Senate amendment, and the title of the bill):

ERNEST F. HOLLINGS,
DANIEL PATRICK MOYNIHAN,
J. JAMES EXON,
HENRY BELLMON,
PETE V. DOMENICI,

For title II of the Senate amendment:

From the Committee on Armed Services:

SAM NUNN,
HARRY F. BYRD, Jr.,
ROGER JEPSEN,

For title II, subtitle A of the House bill and title I of the Senate amendment:

From the Committee on Agriculture, Nutrition, and Forestry:

HERMAN E. TALMADGE,
GEORGE MCGOVERN,
WALTER D. HUDDLESTON,

For title II, subtitle C of the House bill and title VII of the Senate amendment:

From the Committee on Labor and Human Resources:

HARRISON A. WILLIAMS, Jr.,
JENNINGS RANDOLPH,
CLAIBORNE PELL,
RICHARD S. SCHWEIKER,
ROBERT T. STAFFORD,

For title IV of the House bill and title VI of the Senate amendment:

From the Committee on Governmental Affairs:

ABRAHAM RIBICOFF,
JOHN GLENN,
DAVID PRYOR,
CHARLES H. PERCY,
TED STEVENS,

For title II, subtitle B of the House bill:

From the Committee on Labor and Human Resources:

HARRISON A. WILLIAMS, Jr.,
JENNINGS RANDOLPH,
CLAIBORNE PELL,
RICHARD S. SCHWEIKER,
ROBERT T. STAFFORD,

For title V, subtitle A of the House bill and section 401 of the Senate amendment:

From the Committee on Environment and Public Works:

JENNINGS RANDOLPH,
LLOYD BENTSEN,
QUENTIN N. BURDICK,
ROBERT T. STAFFORD,
LARRY PRESSLER,

For title V, subtitle A of the House bill and section 301 of the Senate amendment; for title V, subtitle B of the House bill and section 302 of the Senate amendment; and for section 304 of the Senate amendment:

From the Committee on Commerce, Science, and Transportation:

HOWARD W. CANNON,
J. JAMES EXON,
BOB PACKWOOD,
NANCY L. KASSEBAUM,

For title III, subtitle C of the House bill and section 303 of the Senate amendment:

From the Committee on Commerce, Science, and Transportation:

HOWARD W. CANNON,
J. JAMES EXON,
BOB PACKWOOD,
NANCY L. KASSEBAUM,

For title VII of the House bill and title VIII of the Senate amendment:

From the Committee on Veterans' Affairs:

ALAN CRANSTON,
HERMAN E. TALMADGE,
ALAN K. SIMPSON,

For title III, subtitle B of the House bill:

From the Committee on Labor and Human Resources:

HARRISON A. WILLIAMS, Jr.,
JENNINGS RANDOLPH,
CLAIBORNE PELL,
RICHARD S. SCHWEIKER,
ROBERT T. STAFFORD,

From the Committee on Finance:

RUSSELL B. LONG,
HERMAN E. TALMADGE,
DAVID L. BOREN,
ROBERT DOLE,
WILLIAM V. ROTH, Jr.,

For title III, subtitle A, and title VIII, subtitle A of the House bill, and title V, part F of the Senate amendment:

From the Committee on Finance:

RUSSELL B. LONG,
HERMAN E. TALMADGE,
DAVID L. BOREN,
ROBERT DOLE,
WILLIAM V. ROTH, Jr.,

For title VIII, subtitles B, C, and D of the House bill and title V, parts A, B, C, D, E, and G of the Senate amendment:

From the Committee on Finance:

RUSSELL B. LONG,
HERMAN E. TALMADGE,
DAVID L. BOREN,
ROBERT DOLE,
WILLIAM V. ROTH, Jr.,

For title IX of the House bill and title IX of the Senate amendment:

From the Committee on Finance:

RUSSELL B. LONG,
HERMAN E. TALMADGE,
DAVID L. BOREN,
ROBERT DOLE,
WILLIAM V. ROTH, Jr.,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 7765) entitled, "An Act to Provide for Reconciliation Pursuant to Section 3 of the First Concurrent Resolution on the Budget for Fiscal Year 1981," submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below.

It should be noted that the joint statement of managers which follows was prepared by the Committees of Jurisdiction, but is arranged by title of the conference agreement. A general overview by the Committees on the Budget appears at the beginning.

STATEMENT OF BUDGET COMMITTEE MANAGERS

When Congress approved budget targets for fiscal year 1981, it agreed that growth in Federal spending must be restrained. If deficits accompanied by high rates of inflation are ultimately to be eliminated, the Federal Government must initiate basic reforms in its spending policies. Congress accepted the responsibility to reduce spending by approving reconciliation in the First Budget Resolution for Fiscal Year 1981.

The policy of spending restraint implicit in the First Budget Resolution made it necessary to target reductions in existing programs as well as to eliminate real growth in most discretionary programs aside from defense. A reduction in ongoing programs funded by actions of Congress in previous years is critical because existing law provides virtually automatic expenditures which now account for approximately three-fourths of the Federal budget. In other words, even if Congress voted on new appropriations for discretionary programs and approved no program expansions or new programs for fiscal year 1981, almost $475 billion would still have been spent next year because of laws passed in earlier years. It was obvious that if spending restraint was to occur, automatic expenditures resulting from existing law must be pared. Without legislative changes, spending patterns could not be reduced significantly.

Not all the "uncontrollable" items in the budget are on the spending side. Many provisions of the tax code result in continuing revenue losses to the Federal Treasury. The timing of tax collections can benefit certain categories of taxpayers over others, and

has an impact on the Government's cash management. Consequently, Congress determined, on grounds of equity as well as prudent fiscal management, to require belt-tightening on the revenue side as well as the spending side of the Federal budget.

The Budget Committee managers realize how difficult these spending reductions and tax changes are to adopt. The issue for the Congress is what spending programs and tax benefits of relatively lower priority can be dropped given current economic necessities.

The Congress took unprecedented action by directing that these legislative changes be accomplished throught the reconciliation process. To implement these spending and revenue policies in the First Budget Resolution for Fiscal Year 1981, Congress directed its spending and tax-writing committees to examine the laws within their jurisdiction and to recommend legislative changes which would result in substantial savings in fiscal year 1981. Committees were provided with targets which totaled $4.95 billion of savings in budget authority, $6.4 billion of savings in outlays, and $4.2 billion in additional revenues. The Budget Committees informally suggested areas in which legislative savings could be made. However, the spending and tax-writing committees determined what provisions of law should be changed and how those changes are to be made within the overall dollar targets.

The provisions of the Omnibus Reconciliation Act of 1980 represent efforts of the various committees to comply with the reconciliation directives. Real savings have been achieved which compare favorably with the reconciliation bills as passed by the House and Senate. Many benefit increases contained in the House-passed bill have been eliminated from the conference substitute and most of the spending savings and revenue increases have been retained.

With this reconciliation bill, Congress has shown the ability to impose upon itself a discipline never before achieved. The legislative committees involved in reconciliation deserve the highest commendation for their dedication to respond to the will of Congress. The Budget Committees of both Houses recommend approval of the accompanying reconciliation conference report.

What follows in this statement of managers is a title by title explanation of the conference agreement. This explanation has been prepared by the committees which determined the provisions of the conference agreement which are in their separate jurisdictions.

Short Title and Declaration of Purpose

(TITLE I)

Both the House bill and the Senate amendment included a short title to the bill. The conference agreement adopts the short title contained in section 101 of the House-passed bill.

Section 102 of the House bill provided a general statement of purpose regarding enactment of the reconciliation bill. The Senate amendment did not contain any comparable provision. The conference contains substitute language.

(1) School lunch program, general reimbursement

(A) The *House* bill reduces the general cash reimbursement rate under section 4 of the National School Lunch Act, for fiscal year

1981, for all categories of lunches served (free, reduced price, and paid) by 2½ cents except in school districts in which 60 percent or more of the lunches served were served free or at reduced price during the second preceding school year.

The *Senate* amendment contains the same provision as the *House* bill, but makes it permanent.

The *Conference* substitute adopts the *House* provision with amendments that (1) provide that the amount of State revenues appropriated or used for meeting the State matching requirements of section 7 of the National School Lunch Act will not be reduced because of the 2½ cent reduction in section 4 funding, (2) extend the authorization for appropriations for State administrative expense funds, which under existing law expires at the end of fiscal year 1980, through fiscal year 1984, and (3) extend through fiscal year 1984 the requirement for the Secretary to establish a date by which each State will submit a plan to the Secretary for the disbursement of State administrative expense funds for each year and for reallocation of any unused funds, as evidenced by the plans, to other States as the Secretary deems appropriate, which under existing law expires at the end of fiscal year 1980.

(B) The *House* bill defines "school food authority" for purposes of section 4 of the National School Lunch Act as the governing body that is responsible for the administration of one or more schools and has the legal authority to operate a school lunch or breakfast program.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(2) Direct Federal expenditures, commodity assistance

(A) The *House* bill reduces commodity assistance in the school lunch program by 2 cents per meal for fiscal year 1981.

The *Senate* amendment contains the same provision as the *House* bill, but makes it permanent beginning with the 1980–81 school year.

The *Conference* substitute adopts the *House* provision.

(B) The *House* bill prohibits the Secretary of Agriculture, for the 1980–81 school year, from offering commodity assistance to the States for the school breakfast program.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute (1) permanently prohibits the Secretary of Agriculture from offering commodity assistance to the States for the school breakfast program and (2) extends the commodity purchasing authorization under section 14 of the National School Lunch Act, which under existing law expires at the end of fiscal year 1982, through fiscal year 1984.

(3) Income poverty guidelines

The *House* bill provides that for fiscal year 1981 the income poverty guidelines for the child nutrition programs will be the nonfarm income poverty guidelines prescribed by the Office of Management and Budget for the forty-eight States adjusted annually, thereby deleting the updating of such guidelines through March of 1981.

The *Senate* amendment contains the same provision as the *House* bill, but makes it permanent.

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The *Conference* substitute adopts the *House* provision.

(4) Eligibility guidelines

The *House* bill changes, for fiscal year 1981, the eligibility guidelines for free and reduced-price meals from 125 and 195 percent of poverty, respectively, to 125 percent of poverty plus a standard deduction and 195 percent of poverty plus a standard deduction, respectively. The standard deduction would be the same as the standard deduction in the food stamp program.

The *Senate* amendment changes the eligibility guidelines for free and reduced-price school meals to 125 percent of poverty plus a standard deduction and 185 percent of poverty plus a standard deduction, respectively. The standard deduction would be the same as in the *House* bill.

Both the *House* bill and *Senate* amendment would, through changes in the income poverty guidelines and the eligibility guidelines, reduce the maximum income eligibility level for participation in the WIC program, which under section 17(d)(2) of the Child Nutrition Act of 1966 is the same as the income standard for reduced-price school meals.

The *Conference* substitute adopts the *House* provision with amendments that (1) authorize the Secretary of Agriculture to prescribe procedures for implementing the revised income poverty guidelines that allow school food authorities to make eligibility determinations based on the applications that they distributed at the beginning of the 1980–1981 school year or distribute and make eligibility determinations based on new applications containing the revised income poverty guidelines and (2) extend the authorization for appropriations for the special supplemental food program (WIC) through 1984 at such sums as may be necessary to operate the program for fiscal years 1982 through 1984. The changed income eligibility guideline for reduced-price school meals will determine the maximum income eligibility level for participation in the WIC program.

(5) Special assistance

(A) The *House* bill, for fiscal year 1981, effectively increases to 20 cents the charge for reduced-price lunches by deleting the provision allowing additional cash reimbursement equal to the free lunch reimbursement factor reduced by 10 cents or the price charged for reduced-price lunches in that State, whichever is greater, in any State where all schools charge less than 20 cents per reduced-price lunch.

The *Senate* amendment contains the same provision as the *House* bill, but makes it permanent.

The *Conference* substitute adopts the *Senate* provision.

(B) The *House* bill, for fiscal year 1981, replaces the semiannual adjustments made in the school lunch program reimbursement rates with an annual adjustment made on July 1 to reflect changes for the most recent 12-month period for which such data are available.

The *Senate* amendment contains the same provision as the *House* bill, but makes it permanent.

The *Conference* substitute adopts the *House* provision.

(6) Exclusion of Job Corps centers

The *House* bill, for fiscal year 1981, specifically excludes Job Corps centers funded by the Department of Labor from the definition of "school" in the National School Lunch Act and the Child Nutrition Act of 1966.

The *Senate* amendment contains the same provisions as the *House* bill, but makes them permanent.

The *Conference* substitute adopts the *Senate* provision.

(7) Summer food service program for children

(A) The *Senate* amendment precludes from participating in the program private nonprofit institutions, other than school food authorities, camps, and programs primarily serving migrants, that purchase meals from a food service management company and serve more than 2,000 children daily at more than 20 locations.

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(B) The *House* bill, for fiscal year 1981, limits meal service in the summer program to two meals (lunch and either breakfast or a supplement) daily, except in camps and service institutions serving meals primarily to migrant children.

The *Senate* amendment contains the same provision as the *House* bill, but makes it permanent.

The *Conference* substitute adopts the *Senate* provision.

(C) The *Senate* amendment extends the authorization for appointments for the summer food service program for children, which under existing law expires at the end of fiscal year 1980, through fiscal year 1984.

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(8) Child care food program

(A) The *House* bill includes within the term "institution," and thereby makes eligible for Federal subsidies under the child care food program, beginning in fiscal year 1981, for-profit day care facilities that receive compensation from grants to the States made under title XX of the Social Security Act.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(B) The *House* bill, for fiscal year 1981, provides that adjustments in the reimbursement rates for supplements served in the child care food program will be made on an annual basis on July 1 rather than a semiannual basis.

The *Senate* amendment contains the same provision as the *House* bill, but makes it permanent.

The *Conference* substitute adopts the *House* provision.

(C) The *House* bill provides that, in fiscal year 1981, the Federal cash reimbursement rate for supplements served in the child care food program will be reduced by 3 cents.

The *Senate* amendment contains the same provision as the *House* bill, but makes it permanent.

The *Conference* substitute adopts the *Senate* provision.

(D) The *House* bill, for fiscal year 1981, reduces from $6 million to $4 million the amount available annually for providing equip-

ment assistance to enable child care institutions to establish, maintain, and expand the program.

The *Senate* amendment contains the same provision as the *House* bill, but makes it permanent.

The *Conference* substitute adopts the *Senate* provision.

(9) Special milk program

The *House* bill establishes 5 cents as the reimbursement rate for milk served in the special milk program in fiscal year 1981 to paying children in schools, institutions, or camps that participate in one of the other child nutrition programs.

The *Senate* amendment reduces and freezes the reimbursement rate for milk served in the special milk program to paying children in schools, institutions, or camps that participate in one of the other child nutrition programs to 5 cents per half-pint.

The *Conference* substitute adopts in the *Senate* provision.

(10) School breakfast program

The *House* bill provides for a maximum free breakfast reimbursement in fiscal year 1981 of the higher of (1) the national average payment established by the Secretary plus 10 cents or (2) 45 cents, indexed annually on July 1 rather than semiannually to reflect changes in the series for food away from home of the Consumer Price Index.

The *Senate* amendment contains the same provision as the *House* bill, but makes it permanent.

The *Conference* substitute adopts the *House* provision.

(11) Food service equipment assistance

The *House* bill lowers the authorization for appropriations for food service equipment assistance to $15 million for fiscal year 1981. Under existing law, the authorization for appropriations for food service equipment assistance is permanent at a $75 million per fiscal year level.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute (A) lowers the authorization for appropriations for food service equipment assistance to $15 million for fiscal year 1981, $30 million for fiscal year 1982, $35 million for fiscal year 1983, and $40 million for each fiscal year thereafter and (B) extends through fiscal year 1984 the requirement, which expires at the end of fiscal year 1980, that 40 percent of the funds appropriated for food service equipment assistance be reserved to assist schools without a school lunch or breakfast program that plan to use food service equipment to initiate such a program.

(12) Nutrition education and training

The *House* bill limits the authorization for appropriations for the nutrition education and training program for fiscal year 1981 to $15 million.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute permanently limits the authorization for appropriations for the nutrition education and training program to $15 million and extends the authorization for appropriations for that program through fiscal year 1984.

Student Loan Programs

(TITLE III)

1. The House bill and the Senate amendment both make provision for reporting student loan defaulters to credit bureau organizations for the purpose of improving student loan collection rates.

Section 416 of the Education Amendments of 1980, Public Law 96-374, achieves this purpose.

2. The House bill and the Senate amendment both limit the amount of special allowance paid to lenders for those loans made with the proceeds of State revenue bonds.

Section 438(b)(2)(D) of the Education Amendments of 1980 achieves this purposes.

3. The House bill, but not the Senate amendment, requires that parents exhaust their eligibility under the new parental loan program before their children would be eligible to borrow in the Guaranteed Student Loan program.

The House recedes.

4. The House bill, but not the Senate amendment, permits the Internal Revenue Service to provide the current mailing addresses of student loan defaulters to the holders of loans in default status.

The Senate recedes.

5. The House bill, but not the Senate amendment, suspends the fiscal year 1981 authorization to pay administrative cost allowances to state guarantee agencies in the GSL program.

The House recedes.

6. The Senate amendment, but not the House bill, contains other student loan provisions relating to creation of a National Direct Student Loan Association, changes in the interest rates charged to borrowers, and others.

Parts B and D of Title IV of the Education Amendments of 1980 make changes in the Student Loan programs including provisions for recapture of current outstanding balances of National Direct Student Loans (Section 442) and for increasing interest rates charged to borrowers (Sections 415 and 446).

The conferees note that the only legislative language contained in this conference report on H.R. 7765 is for item 4. All other reconciliation provisions contained in Section H can be found in the Education Amendments of 1980 (Public Law 96-374).

Civil Service, Postal Service, and Related Programs

(TITLE IV)

Subtitle A

The Civil Service

Annual cost-of-living adjustment

Section 601 of the Senate bill eliminates the September 1980 cost-of-living adjustment (COLA) for civil service annuitants and provides that the COLA due on March 1, 1981, shall be based on the change in the Consumer Price Index over the 12-month period beginning December 1979 and ending December 1980.

The House bill contains no comparable provisions. The Senate recedes to the House.

Repeal of "look-back" provision; proration of initial adjustment

Section 401 of the House bill repeals the so-called "look-back" provision of the civil service retirement law, under which employees who retire are able to receive the benefit of the previous cost-of-living adjustment. Section 401 also amends the civil service retirement law to provide for proration of a retiree's initial cost-of-living adjustment. Under proration, the employee will receive one-sixth of the applicable cost-of-living adjustment for each month the employee was on the retirement rolls prior to the effective date of the adjustment.

The Senate amendment contains no comparable provisions.

The conference report contains the House provisions. However, the conferees agree that the repeal of the "look-back" provision shall not be effective until 45 days after the date of enactment. Thus, an individual who retires before the 45th day after the date the President signs the bill will be eligible to take advantage of the "look-back" provision.

Elimination of dual pay for reservists

Section 402 of the House bill amends existing law to limit the total amount of compensation a Federal employee may receive for periods of military training as a member of the National Guard or the Reserve. Under the amendment, employees would continue to receive their military pay, but their civilian pay would be limited to the difference, if any, between their military pay and their civilian pay for the period of training.

The Senate amendment contains no comparable provision. The House recedes to the Senate.

Elimination of credit for holidays in calculating lump-sum leave payments

Section 403 of the House bill amends existing law by eliminating payment for Federal holidays that occur after a Federal employee retires but within the period covered by the employee's lump-sum leave payment. The amendment provides that the period of leave used for calculating the lump-sum payment shall not be extended due to any holiday occurring after the employee's separation.

There is no comparable provision in the Senate amendment. The conferees agreed to the House provision with an amendment changing the effective date from October 1, 1980, to the date of enactment.

Disability retirement eligibility

Section 404 of the House bill amends the civil service disability retirement provisions. Under this amendment, a determination must be made that the employee is not qualified for reassignment to another position in the agency at the same grade or level before the employee may be considered to be disabled. Under existing practice, the employee's ability to perform the duties of another position at the same salary level is not taken into account in determining disability.

The Senate amendment contains no comparable provision.

The conference report includes the House provision with an amendment relating to employees of the United States Postal Service. The amendment provides that employees of the Postal Service shall be considered not qualified for reassignment to a vacant position if the reassignment is to a position in a different craft or is inconsistent with the terms of a collective bargaining agreement covering the employee.

Minimum disability retirement annuity

Section 405 of the House bill amends the civil service retirement law to exclude individuals who are receiving military retirement benefits or veterans' compensation from the guaranteed minimum disability annuity provision. Under existing law, an employee who has completed at least 5 years of civilian service and becomes disabled may retire on an immediate annuity. The disability retiree is guaranteed an annuity equal to the lesser of 40 percent of his average pay or his earned annuity after projecting this service to age 60. Under this amendment, the minimum disability benefit will continue to apply to individuals who receive military retired pay on account of service-connected disabilities received in combat or caused by an instrumentality of war.

The Senate amendment contains no comparable provision.

The conferees agreed to the House provision with an amendment changing the effective date from October 1, 1980, to the date of enactment.

Exemption of life insurance premiums from State taxation

Section 406 of the House bill amends the Federal employees' life insurance provisions by prohibiting States and the District of Columbia from imposing taxes or other fees on premiums paid to carriers under the Federal employees' life insurance program. The Senate amendment contains no comparable provision. The conference report includes the House provision.

Subtitle B

The Postal Service

The House bill contains a number of provisions relating to programs of the Postal Service. Because instructions under the First Concurrent Resolution to achieve savings in postal programs were directed to the Senate Committee on Appropriations and not to the authorizing committee, there were no comparable provisions in the Senate bill. The managers on the part of the House Committee on Post Office and Civil Service and the Senate Committee on Governmental Affairs believe that, in the future, reconciliation instructions should be directed consistently to either the authorizing or appropriations committees in order to give each House of the Congress the opportunity to fully consider and act upon proposed legislative changes.

Public service subsidy and six-day mail

Section 411 of the House bill reduces the amount authorized for public service appropriations for the Postal Service for fiscal year 1981 from $736 million to $486 million, a reduction of $250 million.

A companion provision, section 412, prohibits the Postal Service from taking any action during fiscal year 1981 which would result in the elimination of six-day mail delivery. There are no comparable provisions in the Senate amendment. The conferees agreed to the House provisions.

Reduced rates

Section 413 of the House bill reduces by $100 million the authorization for appropriations to subsidize third-class nonprofit bulk mail for fiscal year 1981. Thus, it proposes an authorization of $319 million, rather than $419 million for the current fiscal year. This section also provides that the reductions may be considered a "failure of appropriation" so that the Postal Service may initiate action to increase the rates applicable to nonprofit third-class bulk mail.

Section 414 of the House bill revises existing law relating to the authority to adjust certain rates when a "failure of appropriation" has occurred. As proposed in the House bill, the Postal Service must petition the Postal Rate Commission for a recommended decision to increase rates, and the Commission must report its recommendations within 60 days. The proceedings before the Commission would be a rule-making procedure rather than a full hearing on the record.

The Senate amendment has no provisions comparable to these reactions. The conference report provides for a $50 million reduction in the authorization for appropriations to substitute third-class nonprofit bulk mail for fiscal year 1981. The conferees agree that this reduction may be considered a "failure of appropriation". The House recedes to the Senate with respect to the provision for rate adjustments when there is a "failure of appropriation".

The Managers on the part of the Senate and House have agreed that removal of section 414 from the bill should not be construed to support or oppose any interpretation of existing law made by the United States Postal Service or any other person.

Section 415 of the House bill amends existing law to specifically authorize the practice by which the Postal Service requests adjustments in appropriations previously made for revenue foregone. This section also provides that the request for a $111 million reconciliation appropriation which was submitted by the Postal Service for fiscal year 1981 shall be resubmitted for fiscal year 1982. The Senate amendment contains no comparable provision. The conference agreement contains the House provision.

Section 416 of the House bill repeals the authorization for political parties to mail third-class mail at the nonprofit rate. The Senate amendment has no comparable provision. The House recedes to the Senate.

Effective date

The conferees agree that the provisions of this subtitle shall be effective on the date of enactment.

Subtitle C

Federal Employees' Compensation Act

The House bill, but not the Senate amendment, provides that cost-of-living adjustments for Federal Employees' Compensation Act (FECA) benefits for job-related accidents shall in the future be made on an annual basis.

The Senate recedes.

Highway, Rail, and Related Programs

(TITLE V)

Subtitle A

Highway Programs

With respect to savings, Public Law 96–400, section 310, has achieved the savings recommended on the part of the conferees of the House and Senate. The conferees from both the Public Works and Transportation Committee in the House and the Environment and Public Works Committee in the Senate have and continue to support the action taken in the Department of Transportation and Related Agencies Appropriations Act for Fiscal Year 1981 and enthusiastically endorse the savings achieved therein.

In particular, the conferees supported the obligation constraints contained in Section 310 of the Department of Transportation Appropriations Act. That section sets a limitation on obligational authority for Fiscal Year 1981 of $8.75 billion. Our support is rooted in the understanding, shared by our colleagues on the Appropriations Committees, that no obligational constraints are to be imposed on either the emergency relief fund or ongoing emergency projects funded under the discretionary bridge replacement fund, including discretionary funds set-aside from bridge replacement funds (prior to such funds being apportioned to the States) for the acceleration of bridge projects program. It has always been the intention of the Public Works conferees that both the Huntington Bridge and U.S. Grant Bridge projects be recognizd as on-going emergency projects. It was the intention of the conferees to exclude these projects from the obligation ceiling. Absent such an exclusion, the projects could not be built in accordance with Congressional intent.

Subtitle B

Other Programs

NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY ACT OF 1966 (SEC. 511)

Senate provision

The Senate provision reduces the level of funding for the National Highway Traffic Safety Administration for general operations in fiscal year 1981 from the $70 million authorized in S. 1159 as it passed the Senate to $53,800,000. This reduction would result in a $5 million savings in budget authority for fiscal year 1981.

House provision

The House measure contains no similar provision.

Conference substitute

The conference substitute adopts the Senate provision with appropriate technical corrections to permit the conferees on S. 1159 to report a bill which authorizes less than $53,800,000 for the general operations of the National Highway Traffic Safety Administration for fiscal year 1981, if they wish to do so.

RAILROAD REHABILITATION (SEC. 512)

Senate amendment

The Senate amendment recommends that the amount authorized to be expended for the railroad rehabilitation and improvement financing program established under title V of the Railroad Revitalization and Regulatory Reform Act of 1976 pursuant to either S. 2530 or H.R. 7235 be limited to $180 million in fiscal year 1981. As originally passed by the Senate, S. 2530 provided for an increase in the authorization level of $400 million for the purchase of redeemable preference shares over a two-year period until September 30, 1982. By limiting the amount authorized to be appropriated for this program during fiscal year 1981 to $180 million, and the balance for fiscal year 1982, the Senate provision would result in an anticipated savings in budget authority of $70 million in fiscal year 1981.

House bill

The House bill contains no provision.

Conference substitute

The Conference substitute adopts the Senate provision which has since been enacted in section 405(b)(1) of the Staggers Rail Act of 1980, Public Law 96–448, which amended section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976.

It is anticipated that this already enacted reduction in the amount authorized to be appropriated for this program will result in a savings of $70 million in budget authority and $13 million in outlays in fiscal year 1981.

Airport and Airway Improvement Act

(TITLE VI)

To date no legislation has passed the Congress to authorize obligations from the Airport and Airway Trust Fund for airport development, airport planning or noise compatability programs. Thus both the Senate and House reconciliation measures were addressed to bills that had originated in that Chamber to authorize such obligations.

The Senate provision addresses S. 1648 and directs the Secretary of the Senate to reduce the budget authority for airport development and airport planning grants for fiscal year 1981 to an amount of not less than nor more than $650,000,000. The House provision addresses H.R. 6721 and provides for an unspecified reduction of $300,000,000 in budget authority, below levels authorized in the re-

ported bill. If the budget authority reductions were not realized, the House provision directs the Clerk of the House to reduce the amount obligated for airport development, airport planning, and noise compatibility programs for fiscal year 1981 to no more than $725,000,000.

The Conference substitute follows both the Senate and House provisions to reduce the budget authority levels in bills that have originated in each Chamber. The substitute limits the amount of grants which the Secretary may be authorized to make from the Airport and Airway Trust Fund in fiscal year 1981 for airport development, airport planning, and noise compatibility programs to a level of not more than $725,000,000.

Veterans' Programs

(TITLE VII)

The Committee of Conference concurs with the recommendation of the conferees appointed for the consideration of matters within the jurisdiction of the Veterans' Affairs Committees of the House and of the Senate. That recommendation is as follows:

Section 401 of Public Law 96-330, the Veterans' Administration Health-Care Amendments of 1980, and section 504 of Public Law 96-385, the Veterans' Disability Compensation and Housing Benefits Amendments of 1980, and sections 201, 202, 211, and 212, together with section 802(b), and title VI of Public Law 96-466, the Veterans' Rehabilitation and Education Amendments of 1980, contain provisions that incorporate in whole or with modifications all but one of the provisions of H.R. 7765 as passed by the House (title VII) and the Senate (title VIII) and will result in total savings exceeding the amounts of savings that each Committee on Veterans' Affairs was instructed in the First Concurrent Resolution on the Budget for Fiscal Year 1981 (H. Con. Res. 307) to achieve through recommended legislation.

We thus recommend that the conference report contain no provision relating to matters within the jurisdiction of the Veterans' Affairs Committees.

Also, we note that the enactment of section 401 of Public Law 96-330, limiting the circumstances under which certain veterans' oaths of inability to defray medical expenses shall be considered conclusive, constitutes appropriate disposition of legislation (H.R. 3475 and S. 759) to authorize the Veterans' Administration to recover the costs of certain non-service-connected care from health resolution in Public Laws 96-330, 96-385, and 96-466 of each provision included in the House or Senate version of H.R. 7765:

COMPARISON OF COST SAVING PROVISIONS UNDER THE JURISDICTION OF THE VETERANS' AFFAIRS COMMITTEES H.R. 7765 AS PASSED BY HOUSE (TITLE VII) AND SENATE (TITLE VIII) WITH PROVISIONS OF PUBLIC LAW 96–330

[In millions of dollars; fiscal year 1981 savings]

Description of items	H.R. 7765						Disposition of items (Provisions of Public Law 96–330, 96–385, and 96–466)		
	House			Senate					
	Budget authorization	Outlays	Section number	Budget authorization	Outlays	Section number	Budget authorization	Outlays	Section number
Limitations on presumption of inability to defray medical expenses.	109.1	109.1	(§ 701)				109.1	109.1	(§ 401 of P.L. 96–330.)
Limitation on payment of certain burial allowances.	83.5	83.5	(§ 702)						Deleted from compromise on P.L. 96–385.
Termination (House) or modification (Senate) of flight and correspondence training.	56.3	56.3	(§ 703)	35.4	35.4	(§ 802)	20.0	20.0	(§§ 603 and 604 of P.L. 96–466.)
Debt-collection provisions	116.0	116.0	(§§ 704, 705)	139.0	139.0	(§ 805)	144.2	144.2	(§§ 605 and 606 of P.L. 96–466.)
Repeal of PREP authority	0.9	0.9	(§ 706)	1.0	1.0	(§ 803)	1.0	1.0	(§ 601 of P.L. 96–466.)
Limitation on payment of education and rehabilitation benefits to incarcerated persons.	6.2	6.0	(§ 707(a), (b), and (c))				8.7	8.7	(§ 602 of P.L. 96–466.)
Limitation on payment of compensation to incarcerated persons.	3.0	3.0	(§ 707(d))						(Less than $500,000) (§ 504 of P.L. 96–385.)
Reduction of GI Bill cost-of-living increase from 15 to 10 percent and delayed effective date.				261.7	267.5	(§ 801)	202.3	207.9	(§§ 201, 202, 211, 212, and 802(b) of P.L. 96–466—see note below.)
Modification of criteria for approving GI Bill vocational objective courses.				4.1	4.1	(§ 804)	1.6	1.6	(§§ 303 and 325 of P.L. 96–466.)
Total savings	375.0	374.8		441.2	447.0		486.9	492.5	

Note.—Title II of P.L. 96–466 provides a 10-percent increase in GI Bill benefits—one-half to be effective October 1, 1980 (sections 201, 202, and 802(b)(1)) and the remainder January 1, 1981 (sections 211, 212, and 802(b)(2)). The savings from the reduction of the increase from 15 to 10 percent ($139.8 million in budget authority and $145.4 million in outlays) and the delay in the effective date of the increase ($62.5 million in budget authority and outlays) add up to the amounts indicated.

Small Business

(TITLE VIII)

Section 601 of the House bill acknowledges achievement of certain reconciliation savings by the House Committee on Small Business through the enactment into law of Public Law 96–302, the Small Business Development Act of 1980. The Senate amendment contains no comparable provision.

The Committees on the Budget concur that the reconciliation directive relating to small business programs has been satisfied by enactment of Public Law 96–302.

Accordingly, the Senate recedes.

Title IX—Medicare and Medicaid Related Provisions

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I. HEALTH PROVISIONS

1. Home health services

House bill.—The House bill provides medicare coverage for unlimited home health visits; eliminates the 3-day prior hospital stay requirement under part A of medicare; eliminates the $60 deductible for home health benefits under part B; includes the need for occupational therapy as a qualifying criterion for home health benefits; allows proprietary home health agencies in states without licensure laws to participate in medicare; provides authority for the Secretary of Health and Human Services to require bonding or the establishing of escrow accounts to the extent he finds necessary; requires the Secretary to establish regional intermediates for home health agencies; and requires the Secretary to take several actions to achieve the more effective administration of the home health benefit.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows the House bill.

The conference agreement eliminates the special licensing requirement under present medicare law relating to proprietary home health agencies and the authority of the Secretary to establish additional standards solely on the basis of the tax status of an agency. Thus, under the conference agreement, if a state has a home health agency licensing law, any home health agency, regardless of its sponsorship, must be licensed under that law or be approved by the state agency responsible for licensing home health agencies as meeting the established requirements (other than requirements relating to the tax status of the agency) in order to participate as a home health agency in the medicare program.

In requiring the designation of regional intermediaries for home health agencies, it is not the intent of the conferees that home health agencies would be precluded from contracting directly with the Health Care Financing Administration.

2. Reciprocal agreements for services furnished outside the United States

House bill.—The House bill authorizes the negotiation of reciprocal agreements with other countries for medicare benefits for beneficiaries living or traveling outside the United States.

Senate amendment.—No provision.

Conference agreement.—The conference agreement does not include the House provision.

3. Dentists' services

House bill.—The House bill provides medicare coverage for services furnished by dentists when the services are of the kinds that are covered when furnished by physicians. The bill also covers hospital stays where the severity of the noncovered dental procedure warrants. Routine dental services would continue to be noncovered services.

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Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision.

4. Treatment of plantar warts

House bill.—The House bill provides medicare coverage for the treatment of plantar warts (warts on the feet).

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision.

5. Community mental health centers

House bill.—The House bill provides reimbursement under part B of medicare to community mental health centers for up to 15 outpatient and 60 partial hospitalization visits per year under part B of medicare.

Senate amendment.—No provision.

Conference agreement.—The conference agreement does not include the House provision.

6. Comprehensive outpatient rehabilitation facility services

House bill.—The House bill covers free-standing outpatient rehabilitation facilities as providers of services under medicare.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision.

7. Optometrists' services

House bill.—The House bill covers services furnished by optometrists related to the condition of aphakia (absence of the natural lens of the eye).

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision.

8. Antigens

House bill.—The House bill covers antigens prepared by one physician and forwarded to another for administration to the patient.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision.

9. Payment where beneficiary not at fault

House bill.—The House bill requires the Secretary to make medicare payment where a beneficiary who required a higher level of care was erroneously placed in a part of the institution providing a lower level of care.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision.

10. Flexibility in application of standards to rural hospitals

House bill.—The House bill authorizes the Secretary to apply the medicare health and safety standards applicable to all hospitals

more flexibly with respect to rural hospitals where such action will not jeopardize patient health and safety.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision with a modification under which the Secretary is authorized to provide for a limitation on the scope of services to be furnished by a hospital consistent with any relaxation or waiver of applicable standards.

11. Certification and utilization review by podiatrists

House bill.—The House bill allows podiatrists, acting within the scope of their practice, to be recognized as physicians for the purpose of physician certification and utilization review.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision.

12. Physician treatment plan for speech pathology

House bill.—The House bill allows a speech pathologist to establish the plan of treatment for speech pathology services.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision.

13. Payment for physicians' services where beneficiary has died

House bill.—The House bill authorizes, for physicians' services rendered to a beneficiary before his death, payment on the basis of an unpaid bill, to the person who has agreed to assume legal obligation to pay the physician.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision.

14. Presumed coverage provisions

House bill.—The House bill repeals medicare provisions authorizing, by type of diagnosis, presumed periods of coverage for skilled nursing facility and home health services.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision.

15. Payments to providers of services

House bill.—The House bill (a) repeals a provision of existing law under which medicare payments to a provider of services are limited to the lower of the provider's customary charges or the reasonable cost for services to medicare beneficiaries, and (b) providers for reimbursement under medicare Part B to providers of services on the basis of the reasonable cost minus the coinsurance amounts charged beneficiaries.

Senate amendment.—No provision.

Conference agreement.—The conference agreement does not include the House provision on (a) and follows the House provision on (b).

16. Limit on premium increases due to late enrollment

House bill.—The House bill limits the late enrollment penalty under medicare part B to a maximum of 30 percent.

Senate amendment.—No provision.

Conference agreement.—The conference agreement does not include the House provision.

17. Reenrollment and open enrollment in part b

House bill.—The House bill repeals a provision of existing law that permits beneficiaries to reenroll in medicare Part B only once (thus unlimited reenrollment would be permitted), and also permits continuous open enrollment for individuals who failed to enroll at their first opportunity (rather than open enrollment only during January through March of each year).

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision with a modification providing a one-year period beginning January 1, 1981, during which any State which has not already done so could enter into an agreement or modification of an agreement, with the Secretary under section 1843 of the Social Security Act for the enrollment of, and purchase of medicare Part B protection for, eligible individuals who are receiving money payments under public assistance programs or who are eligible for medical assistance under title XIX of the Social Security Act. A state currently without a buy-in agreement could enter into an agreement during 1981 covering both cash recipients and persons eligible only for medical assistance if it wished to do so.

18. Chiropractors' services

House bill.—The House bill modifies the requirement for chiropractic coverage so that a subluxation could be domonstrated to exist either by an X-ray or other chiropractic clinical findings. X-rays taken to demonstrate a subluxation would be covered.

Senate amendment.—No provision.

Conference agreement.—The conference agreement does not include the House provision.

19. Increase in outpatient mental health benefits under part B

House bill.—The House bill increases the present limit on reimbursement for outpatient mental health services from 50 to 80 percent of reasonable charges, up to $750 in program payments per year. The bill also covers outpatient services of qualified clinical psychologists when referred by a physician.

Senate amendment.—No provision.

Conference agreement.—The conference agreement does not include the House provision.

20. Limitation of payments to radiologists and pathologists

House bill.—The House bill limits the special 100 percent reimbursement for radiology and pathology services to physicians accepting assignment for all services furnished to hospital inpatients.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision.

21. Shortened part B termination period for certain individuals whose premiums medicaid has ceased to pay

House bill.—The House bill permits an individual whose State buy-in coverage for part B of medicare has ended to terminate such coverage effective with the month medicare is notified that coverage is no longer wanted, rather than continue, enrollment for as long as 6 months.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision.

22. Outpatient physical therapy services

House bill.—The House bill increases the present $100 yearly limitation on outpatient physical therapy services to $500.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision.

23. Reimbursement for blood

House bill.—The House bill eliminates the medicare 3-pint blood deductible.

Senate amendment.—No provision.

Conference agreement.—The conference agreement does not include the House provision.

24. Medicare payment liability secondary in certain automobile insurance cases

House bill.—The House bill provides that medicare would be the secondary payor in any case where the health care services can be paid for under an automobile insurance policy. And under present law with respect to workmen's compensation cases, medicare would pay the beneficiary's claim and recover the amounts payable from the private insurance company when liability for such payment is established.

Senate amendment.—The Senate amendment contains a similar provision except that (a) medicare would be the secondary payor in any case where care can be paid for under any liability insurance policy (including an automobile insurance policy) or under a no-fault insurance plan; and (b) the Secretary is authorized to waive this provision if he determines that the probability of recovery or the amount involved under such a policy or plan does not warrant the pursuing of the claim.

Conference agreement.—The conference agreement follows the Senate amendment with modifications to clarify that the provision (a) is also applicable to self-insurance plans, and (b) will be administered, with respect to the recovery of amounts payable under a plan or policy, as provided for in the House bill. With respect to no-fault insurance plans, the provision is applicable only to the policies or plans actually held by the individuals involved and not to any hypothetical policies or plans that an individual at one time could have opted, but did not opt, to enroll in.

25. Hospital transfer requirement for skilled nursing facility coverage

House bill.—The House bill provides that the 14-day period within which a medicare beneficiary must be transferred from a hospital to a skilled nursing facility in order to qualify for post-hospital extended care benefits would be extended to 30 days. The bill also extends the period during which beneficiaries can be readmitted to a skilled nursing facility without again meeting the three day prior hospitalization requirement.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision.

26. Outpatient surgery

House bill.—The House bill requires the Secretary to establish a list of procedures which, although appropriately performed on a hospital inpatient basis, can also be safely performed in an ambulatory surgical center. The costs related to the use of the ambulatory surgical center in performing such procedures would be covered in full. Medicare would also reimburse 100 percent of the physician's reasonable charge when he performs such procedures in an ambulatory surgical center or in the outpatient department of a hospital, provided the physician agrees to accept assignment.

Senate amendment.—The Senate amendment requires the Secretary to establish lists of procedures which can be safety and appropriately performed both on a hospital inpatient basis and in an ambulatory surgical center or a physician's office. The costs related to performing procedures in an ambulatory surgical center would be covered in full. An amount calculated to take account of any unusual overhead expenses would be established and paid where a physician performs the specified procedures in his office. The physician's fee for performing such procedures in an ambulatory surgical center, the outpatient department of a hospital, or in the office would be reimbursed 100 percent of the reasonable charge provided the physician agreed to accept assignment.

Conference agreement.—The conference agreement generally follows the Senate amendment with modifications. The Secretary is to establish (a) a list of procedures which are frequently performed on a hospital inpatient basis but which can be safely performed in an ambulatory surgical center and (b) a list of procedures which are frequently performed on a hospital inpatient basis but can also be safely performed in a physician's office. The purpose of this provision is to provide incentives to perform surgical procedures on a less costly outpatient basis in cases where the need to perform the procedure is routinely used as justification for admission as a hospital inpatient. Accordingly, it is not expected that the lists established by the Secretary would include procedures which are already generally recognized as more appropriately (from the standpoint of efficient utilization of inpatient services) performed on an outpatient basis.

For those procedures which can be performed in a physician's office, an amount calculated to take account of any unusual overhead expense not usually incorporated into the professional fee for equipment, supplies, space, etc., would be established and paid in full. This overhead factor is expected to be calculated on a prospec-

tive basis (and periodically updated) utilizing sample survey or similar techniques to establish reasonable estimated overhead allowances for each of the listed procedures which take account of volume (within reasonable limits). The Secretary is expected to recognize only such additional overhead expenses as are not reflected in the customary charges of physicians.

Subject to the conditions discussed below, the physician would be reimbursed 100 percent of the reasonable charge for performing the listed procedures, provided he accepts assignment, in an ambulatory surgical center, the outpatient department of a hospital, or his office.

This reimbursement would be authorized for procedures performed in the physicians' offices only where (1) a Professional Standards Review Organization is willing, able, and has agreed to carry out a review of the physician performance of such procedures and (2) the physician has agreed to make such records available to the PSRO as may be determined to be necessary. Further, physicians would be reimbursed under this section only for those procedures for which they have admitting privileges in a hospital located in the geographic area in which their office is located.

27. Technical renal disease amendments

House bill.—The House bill authorizes the Secretary to enter into agreements with approved non-profit organizations to assist home dialysis patients in obtaining and maintaining dialysis equipment; changes the reporting date for the renal disease program annual report from April 1 to July 1; and provides that the State health planning agency's determination, rather than the Secretary's, of the need for a new or expanded renal facility is conclusive.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows the House provisions relating to agreements with non-profit organizations assisting home dialysis patients and to the change in the reporting date for the annual renal disease program report; but does not include the House provision relating to determinations of the need for a new or expanded renal facility.

The conferees recognize that every effort should be made to coordinate renal dialysis facility certification by the Secretary with the certificate of need approval process. Accordingly, it is expected that the Secretary will take appropriate steps to inform State health planning agencies and potential applicants of the criteria for certification of renal dialysis facilities.

28. Preadmission diagnostic testing

House bill.—The House bill provides 100 percent medicare reimbursement for diagnostic tests administered in the outpatient department of a hospital seven days prior to the patient's treatment as a hospital inpatient.

Senate amendment.—The Senate amendment provides for 100 percent reimbursement for those diagnostic tests which are designated by the Secretary as tests which can be performed either on an inpatient or outpatient basis if the tests are administered in the outpatient department of a hospital seven days prior to the patient's treatment as a hospital surgical inpatient.

Conference agreement.—The conference agreement follows the House provision with an amendment to cover, to the extent practicable, diagnostic tests administered in a physician's office seven days prior to admission as an inpatient. The conferees intend that, in determining whether coverage for diagnostic tests furnished in a physician's office is feasible, the Secretary is to consider whether such an arrangement is administratively practical and appropriate procedures can be established between the part A intermediary and the part B carrier, whether it contributes to the economical use of program funds, whether adequate protections against possible abuse are included, and whether there are assurances that the tests are transferable and won't be duplicated.

29. Studies and demonstration projects

House bill.—The House bill provides for studies with respect to medicare coverage for orthopedic shoes, respiratory therapy, second opinions for surgery, foot care, and home health services of dieticians. Demonstration projects are authorized with respect to coverage for clinical social workers and nutritional therapy for renal patients.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision with an amendment to provide that, where relevant, any study undertaken under this provision should include an evaluation of the effects of payments to independent practitioners on coordination of care, cost, quality, organized settings, and utilization of services.

30. Provider Reimbursement Review Board

House bill.—The House bill requires the Board, when requested by a provider, to determine within 30 days whether it has jurisdiction over an issue brought before it by a provider; authorizes the Board to make such determinations on its own motion; and authorizes judical review without further administrative review where the Board decides it lacks jurisdiction.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision.

31. Access to books and records of subcontractors

House bill.—The House bill provides that medicare reimbursement will include amounts paid by providers for services furnished under contracts with subcontractors whose cost or value over 12 months is at least $10,000 only if such contracts contain a provision allowing the Secretary or the Comptroller General access, upon request, to the contract, and the books, documents, and records of the subcontractor that are necessary to verify costs. Such access would need to be provided for 3 years after furnishing of the services.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision with several modifications: (1) Access to books and records would be required for 4 years rather than 3 years after furnishing of the services; (2) contracts between providers and subcontractors would require that if the subcontractor carries out any of the duties under the contract through an organization related to

the subcontractor by common ownership or control, the subcontractor's contract with the related organization must provide for similar access to books and records; (3) the Secretary's request for access to books and records must be in writing; and (4) the Secretary would be required to specify in regulations the criteria and procedures for seeking and obtaining access to the relevant contracts, books, documents and records. (The intent of provisions (3) and (4) is to assure that subcontractors will not be subjected to inappropriate requests.) In addition, under the conference agreement, the provisions specifying a cost or value of at least $10,000 are intended as a measure of significant business activity between a provider and a single subcontractor (or between a subcontractor and another related subcontractor), and this measure could not be appropriately circumvented by entering into a series of smaller contracts each of which is for less than $10,000. The conferees would further note that, in the event a subcontractor or a related organization does not include the required provision in contracts to which this provision is applicable, or if they refuse to provide access under such provision, the Secretary or Comptroller General could, in addition to any other remedies available to them, initiate legal action against such subcontractor or organizations as intended third party beneficiaries.

32. Medicare coverage of pneumococcal vaccine and its administration

House bill.—The House bill authorizes medicare reimbursement for pneumococcal vaccine and its administration with no applicable deductible or coinsurance.

Senate amendment.—No provision.

Conference agreement.—The conference agreement does not include for House provision.

33. Expanded membership of professional standards review organizations

House bill.—The House bill authorizes each PSRO to offer membership, at its own option, to nonphysician health professionals who hold independent hospital admitting privileges.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision.

34. Registered nurse and dentist membership on statewide council advisory group

House bill.—The House bill provides that at least one registered professional nurse and one dentist must be included in the membership of the advisory group to each Statewide PSRO Council.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision.

35. Nonphysician membership on National Professional Standards Review Council

House bill.—The House bill expands the membership of the National Council to include a dentist, a registered professional nurse

and one other nonphysician health professional representing the recognized ancillary health care disciplines.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision.

36. Efficiency in delegated review

House bill.—The House bill authorizes PSRO's to delegate review functions to hospitals only if the hospital demonstrates a capacity to carry out the required reviews effectively, efficiently and in a timely fashion.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision.

37. Required activities of PSRO's

House bill.—The House bill provides that, in order to obtain full designation, a conditionally designated PSRO must be satisfactorily conducting reviews of inpatient services provided by hospitals in its areas, except that review of ancillary services is not required. (The House bill eliminates the requirement of present law that a PSRO must be reviewing outpatient hospital services and long-term care services to be fully designated.) The bill also directs the Secretary to establish a program for the evaluation of the cost-effectiveness of PSRO review of particular types of services and authorizes the Secretary to require PSRO's to conduct review of additional types of services only where such review has been found to be cost-effective or yields other significant benefits.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision.

38. Response of PSRO's to Freedom of Information Act requests

House bill.—The House bill provides that no PSRO will be required to make available any records pursuant to a request under the Freedom of Information Act (FOIA) until 180 days after the entry of a final court order requiring such disclosure.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows the House provisions with a modification under which a PSRO will not be required to make records available pursuant to an FOIA request until the later of: (1) one year after the entry of a final court order requiring such disclosure, or (2) the last date of the Congress during which the court order was entered. The intent of the conference agreement on this provision is not to make moot or otherwise reflect congressional intent with respect to any cases on the issue of PSRO disclosure of information under the FOIA now pending before the courts, but rather to provide time for the Congress to have the benefit of full judicial consideration of the issue.

39. Consultation by PSRO's with health care practitioners

House bill.—In lieu of the present requirement of formal advisory groups of health care practitioners to individual PSRO's, the House bill authorizes the Secretary to establish more flexible

guidelines to assure appropriate operational PSRO consultation with representatives of all health care disciplines.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision.

40. Review of routine hospital admission services and preoperative stays by PSRO's

House bill.—The House bill authorizes PSRO's to focus preadmission review on those areas of relatively frequent overutilization—particulary routine hospital admission services and excessive preoperative stays—to assure that program payments are made only when routine tests and long preoperative stays for elective conditions are medically appropriate. The House bill also authorizes the Secretary to direct a PSRO to conduct such reviews where the Secretary determines they can be made on a timely, cost-effective basis.

Senate amendment.—The Senate amendment contains a similar provision directing PSRO's to give priority to the review of routine hospital admission services and preoperative stays.

Conference agreement.—The conference agreement includes the House provision.

41. Study of PSRO norms, standards, and criteria

House bill.—The House bill requires the Secretary to conduct, in consultation with the National Council, a nationwide study of the differences in PSRO norms and to report the findings to Congress within one year of enactment.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision.

42. Nonprofit hospital philanthropy

House bill.—The House bill provides that grants, gifts, and income from endowments, whether restricted by the donor or not (as well as certain income from philanthropic gifts, and other funds) shall not be deducted from operating costs of nonprofit hospitals in determining reimbursement under the medicare, medicaid and Maternal and Child Health programs.

Senate amendment.—No provision.

Conference agreement.—The conference agreement modifies the House provision to specify that the following items shall not be deducted from the operating costs of nonprofit hospitals in determining reimbursement amounts: (1) grants, gifts or endowments, and the income therefrom, which have not been designated by the donor for paying any specific operating costs; (2) governmental grants or similar payments, under the terms of which the grant or payment is not available for use as operating funds; and (3) the proceeds from the sale or mortgage of any real estate or other capital asset which the hospital acquired through gift or grant and which, under the terms of the gift or grant, are not available for use as operating funds (except for recovery of the appropriate share of depreciation when gains or losses are realized from the disposal of depreciable assets.)

In determining reimbursement amounts, the Secretary would continue to have authority not to deduct from operating costs certain types of donor-designated gifts and grants (including government grants) if he or she determines that it would be in the best interest of needed health care not to make a deduction with respect to such types of grants or gifts. It is intended the exemption currently contained in regulations relating to family practice training grants would be continued.

It is the intent of the conference committee that the prohibition against deducting gifts, grants, endowments, and income therefrom, shall apply indirectly as well as directly and preclude the Secretary from taking into account the presence of charitable funds generated from gifts, grants or endowments which have not been designated by the donor for paying any specific operating costs as a reason for denying any reimbursable expense, such as interest expense.

43. Consultative services for skilled nursing facilities

House bill.—The House bill repeals the provision of present law under which the State agency responsible for determining skilled nursing facility compliance with medicare's conditions of participation may furnish consultative services to help the facility achieve or maintain compliance with the conditions of participation.

Senate amendment.—No provision.

Conference agreement.—The conference agreement does not include the House provision.

44. Study of need for dual participation of skilled nursing facilities

House bill.—The House bill requires the Secretary to conduct a study of the reasons for the present scarcity of skilled nursing home beds, including the extent to which existing law and regulations discourage dual participation of skilled nursing facilities in the medicare and medicaid programs, and to report the results of the study to Congress within one year after enactment.

Senate amendment.—No provision.

Conference Agreement.—The conference agreement includes the House provision.

45. Alternative to decertification of long-term care facilities out of compliance with conditions of participation; look behind authority

House bill.—The House bill authorizes the Secretary and State medicaid agencies to deny reimbursement for services furnished by a skilled nursing facility or an intermediate care facility for all medicare and medicaid beneficiaries admitted to the facility after the date the Secretary determines that such facility is substantially out of compliance with the conditions of participation. This intermediate sanction would be applicable as an alternative to decertification only in the case of a facility whose deficiencies do not immediately jeopardize the health and safety of patients; where patient health and safety is jeopardized, the Secretary and the State agency are required to take action to decertify the facility simultaneously with application of the more limited sanction. (The provision requires the Secretary to provide public notification to poten-

tially affected beneficiaries of the date of the sanction and the fact that no benefits will be payable on behalf of a beneficiary admitted to the facility after that date.) In addition, this provision authorizes the Secretary to "look behind" a State's survey of an SNF or ICF and, where the Secretary finds that a facility does not meet the conditions of participation, to terminate that facility's participation in medicaid.

Senate amendment.—No provision.

Conference agreement.—The conference agreement included the House provision with a modification limiting the Secretary's authority to "look behind" a State's survey of a SNF or ICF to situations in which the Secretary has cause to question the adequacy of the State's determination. It is understood that cause for questioning the State's determination could include the general performance of the State system or complaints by residents, relatives, advocates or others about the quality of care or conditions in the facility. Under the Conference agreement it is intended that Federal financial participation could be continued with respect to medicaid patients of a facility decertified by the Secretary during such reasonable time as is required to effect the transfer of medicaid patients from the facility. Further, the conferees note that it is not the intention of this provision to alter the access to a full evidentiary hearing before decertification of a facility occurs, as provided under current law.

46. Life Safety Code requirements

House bill.—The House bill repeals the requirement that skilled nursing facilities must be in compliance with the 1973 edition of the Life Safety Code of the National Fire Protection Association and authorizes the Secretary to determine in regulations when facilities are to be required to meet the provisions of revised editions of the Code, taking into account the capabilities of facilities and State survey agencies to accommodate the revisions.

Senate amendment.—No provision.

Conference agreement.—The conference agreement included the House provisions with a modification to provide that facilities which are in compliance with the Life Safety Code provisions of present law (and for so long as such compliance is maintained) will be considered to be in compliance with the requirements imposed in regulations with respect to the Life Safety Code provisions.

47. Criminal standards for certain medicare and medicaid related crimes.

House bill.—The House bill provides that the criminal penalities under present law for the solicitation, payment or receipt of remuneration for referring a medicare or medicaid patient or in return for purchasing, leasing or ordering any supply or service covered under medicare or medicaid will be applicable where such conduct is undertaken knowingly or willfully.

Senate amendment.—No provision.

Conference agreement.—The conference agreement included the House provision.

48. Exclusion of health care professionals convicted of medicare or medicaid-related crimes

House bill.—The House bill broadens the exclusion under present law from participation in medicare and medicaid of practitioners convicted of program-related crimes so as to apply this provision to all other categories of health professionals.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision with a modification that would make the provision applicable to the program under Title XX of the Social Security Act.

49. Requirements concerning reporting of financial interest

House bill.—The House bill amends the financial reporting requirements of present law (under which reporting of all interests of 5 percent or more of any obligations secured by the entity if required) to provide that an entity must report only those individual interests in mortgages or other obligations equal to at least $25,000 or 5 percent of the entity's total assets.

Senate bill.—No provision.

Conference agreement.—The conference agreement includes the House provision.

50. Withholding of Federal share of payments to medicaid providers to recover medicaid overpayments

House bill.—The House bill authorizes the Secretary to withhold the Federal share of medicaid payments from providers and physicians in order to recover medicare overpayments where such overpayments cannot be recovered through the medicare program either because the provider is participating in medicare at a minimal level or the physician no longer accepts assignment for medicare claims.

Senate bill.—No provision.

Conference agreement.—The conference agreement includes the House provision.

51. Hospital providers of long-term care services ("swing-beds")

House bill.—The House bill authorizes the Secretary to enter into an agreement with any particpating hospital, for reimbursement purposes, to permit the hospital to use its beds on a "swing-basis" as acute or long-term care beds as needed (reimbursement in such cases would reflect the lower cost of less than acute care).

Where a hospital does not have a "swing-bed" agreement, payment would be made at the same rate otherwise payable to a participating swing-bed hospital for a long-term care patient who cannot be transferred because of the unavailability of a long-term care bed if the hospital's occupancy rate is below 80 percent and the hospital could obtain a certificate of need to provide long-term care services.

Senate amendment.—The Senate amendment provides for reimbursement to hospitals at the SNF or ICF rate (as may be appropriate) for patients in the hospital who are determined to need non-acute services rather than hospital services and where no long-term care bed is available in the locality. This limitation would not apply in geographic areas where the planning agencies certify that

there is no excess of hospital beds and there is a shortage of long-term care beds. The bill also provides medicare reimbursement (with no deductible or coinsurance) for inpatient detoxification services in freestanding facilities meeting health and safety standards.

Conference agreement.—The conference agreement follows the swing-bed provisions of the House bill with modifications so as to limit the availability of swing-bed agreements to rural hospitals of 50 beds or less, and to provide for swing-bed demonstration projects for large and urban hospitals.

Similarly, the conference agreement follows the House bill provisions relating to reimbursement for inappropriate inpatient hospital services with modifications so as to provide that where a beneficiary who no longer requires acute hospital services must remain in the hospital because no long-term care bed is available in the community, the hospital will be reimbursed a daily rate equal to the adjusted average medicaid SNF rate in the State for persons needing SNF services, and for purposes of medicaid at the ICF rate for those patients. (It should be noted that where a State has developed a system of adjustments in its long-term care rates—for example, to distinguish between urban and rural settings—such adjusted rates could be used for purposes of reimbursement under this section where appropriate.) The reduced level of reimbursement would not apply where a hospital's annual occupancy rate is equal to or greater than 80 percent. In determining the occupancy rates of public hospitals under common ownership where patients can be transferred among the related institutions, the rates can be combined (with the approval of the Secretary) for purposes of this occupancy test. Two years after enactment of this legislation, the computation of occupancy rates shall be adjusted, to the extent feasible, to exclude from the computation those long-term care patients who should not be in the hospital.

With respect to the coverage of freestanding detoxification facility services, the conference agreement follows the Senate amendment with modifications so as to limit coverage to alcohol detoxification; to provide for studies and demonstration projects on alcoholism rehabilitation, drug detoxification and incentives for the use of lower-cost free standing detoxification facilities; and to clarify that medicare payment for inpatient detoxification services furnished by participating hospitals to the extent appropriately required and provided would continue to be made as under present law, without regard to the availability of free-standing detoxification facilities.

52. Coordinated audits under the Social Security Act

House bill.—The House bill provides for coordinated audits under medicare and medicaid, and directs the Secretary to evaluate the feasibility of creating a single coordinated appeal process to adjudicate disputes arising under coordinated audits.

Senate amendment.—The Senate amendment includes a similar provision with respect to coordinated audits under medicare and medicaid.

Conference agreement.—The conference agreement includes the House provision.

53. Demonstration projects relating to the training of AFDC recipients as home health aides

House bill.—The House bill requires the Secretary to enter into agreements with up to 12 States for the purpose of conducting demonstration projects for the training and employment of AFDC recipients as home health aides.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows the House bill. It is the conferees' intent that in selecting the States for purposes of these demonstrations, the Secretary give priority to those States which have demonstrated active interest in and support for the concept embodied in this provision. (Among the States which have demonstrated such active interest and support are California, Georgia, Hawaii, Michigan, New Jersey, New Mexico and New York.) It is expected that the Secretary will help 12 States to develop effective demonstration projects and will request an increase in the number of States that may participate if, in the Secretary's judgment, the experience with the initial demonstrations warrants such action. Projects shall be inclusive of entire States, or parts of States, depending on the plans proposed by the States; and the number of participants in each State is expected to vary as training and placement opportunities develop over time. Consistent with responsible administration, the conferees expect that the Secretary will act expeditiously in implementing this program with a minimum of regulatory delay and a maximum of formal and informal cooperative effort with applicant States. In any event, the conferees expect that any necessary guidelines (or proposed regulations) will be issued no later than April 1, 1981, and that the opportunity to begin demonstration projects in some States by July 1, 1981 will be made available to those States willing to expeditiously undertake them.

54. Quality assurance programs for clinical laboratories

House bill.—The House bill extends to December 31, 1980, the Secretary's authority to conduct a program to determine the proficiency of clinical laboratory personnel who do not meet formal educational requirements.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision, with an extension through December 31, 1981.

55. Reimbursement of clinical laboratories under medicare and medicaid

House bill.—The House bill limits program recognition of markups of bills from physicians for services performed by independent clinical laboratories; payment to a physician in such cases would be limited to the lesser of the reasonable charge of the laboratory or the amount actually charged the physician, plus a nominal fee for physician handling of the specimen. The House bill also authorizes State medicaid agencies to purchase clinical laboratory services through competitive bidding on a demonstration basis during a 3-year period beginning October 1, 1980.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows the House bill with respect to physician billings for clinical laboratory

services; and does not include the House provision relating to the purchase of laboratory services by State medicaid agencies.

56. Reimbursement of physicians' services in teaching hospitals

House bill.—The House bill repeals provisions of existing law that were added by section 227 of P.L. 92-603 under which physicians' services furnished in teaching hospitals are to be treated under medicare as hospital services reimbursable on a reasonable cost basis, except where a hospital had traditionally billed for physicians' services on a charge basis and where the hospital's patients could be considered "private patients." The House bill retains the section 227 provisions of existing law under which a teaching hospital and all its physicians may elect to be paid on the basis of reasonable cost.

Senate amendment.—No provision.

Conference agreement.—The conference agreements follows the House provision by repealing the amendments made by section 227 of P.L. 92-603 except for the provisions allowing cost reimbursement for physicians' services to a hospital with an approved teaching program if the hospital and all its physicians so elect.

In addition, the conference agreement allows reimbursement on a charge basis under medicare part B for the services of a physician in a teaching hospital only if specified conditions are met:

(a) The physician renders sufficient personal and identifiable physician services to the patient to exercise full, personal control over the management of the portion of the case for which the payment is sought and

(b) The services are of the same character as the services the physician furnishes to patients not entitled to benefits under medicare, and

(c) At least 25 percent of the hospital's nonmedicare patients pay all or a substantial part of charges (other than nominal charges) for such services. (In general, the conferees intend that a substantial part of the charges be interpreted as at least 50 percent; however, amounts paid by medicaid would be deemed to meet the "substantial" test.)

In specifying the requirements in (a) and (b), above, the intention of the conferees is to permit payment on a charge basis only where the physician is the patient's "attending physician." The conferees endorse (without intending to prohibit reasonable changes in the future) the attending physician requirements (a portion of which is reproduced below) contained in the existing HHS policy instruction, Intermediary Letter 372.

> To be the "attending physician" for an entire period of hosptial care, the teaching physician must as a minimum:
>
> a. Review the patient's history, the record of examinations and tests in the institution, and make frequent reviews of the patient's progress; and
>
> b. Personally examine the patient; and
>
> c. Confirm or revise the diagnosis and determine the course of treatment to be followed; and
>
> d. Either perform the physician's services required by the patient or supervise the treatment so as to assure that appropriate services are provided by interns, residents, or others and that the care meets a proper quality level; and

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e. Be present and ready to perform any service performed by an attending physician in a nonteaching setting when a major surgical procedure or a complex or dangerous medical procedure is performed; for the physician to be an "attending physician" his presence as an attending physician must be necessary (not superfluous as where, for example, the resident performing the procedure is fully qualified to do so) from the medical standpoint; and

f. Be recognized by the patient as his personal physician and be personally responsible for the continuity of the patient's care, at least throughout the period of hospitalization.

Where there is an attending physician-patient relationship, as determined pursuant to the above requirements, the customary charges for the services rendered by the attending physician shall be determined in accordance with regulations of the Secretary which take into account the factors cited below:

(i) in the case of a physician who has a substantial practice outside the teaching setting, the medicare carrier shall take into account the amounts the physician charges for similar services in the physician's outside practice;

(ii) in the case of a physician who does not have such a practice as described in clause (i), if the physician, hospital, or other appropriate billing entity has established one or more schedules of charges for medical and surgical services, the carrier shall base reimbursement on the greater of—

(a) the charges (other than nominal charges) which are most frequently collected in full or substantial part from the patients of the hospital who are not entitled to benefits under this title, or

(b) the mean of the charges (other than nominal) collected in full or substantial part from such patients.

Where a physician does not qualify for reimbursement under part A for his services as an attending physician and where the physician elects not to be paid under one of the above payment procedures, the carrier shall base reimbursement on that portion of the physician's compensation from the hospital which is for services to patients determined in accordance with regulations governing reimbursement for the services of hospital-based physicians.

The conferees intend (without precluding reasonable changes in the future) that indetermining the amount payable on a charge basis under medicare part B for services of physicians in teaching hospitals, the policies contained in Intermediary Letter 372 should be generally followed where these are not inconsistent with the provisions of the conference agreement.

The conferees are concerned that existing reimbursement principles on primary care internship or residency programs may work at cross purposes with some provisions of the Public Health Service Act programs which seek to encourage primary care training. The conferees encourage the Secretary of the Department of Health and Human Services, in consultation with the Public Health Service and the Health Care Financing Administration, to study this issue and to provide the appropriate committees of Congress with recommendations for administrative or statutory changes, esti-

mates of costs to government which would be incurred by these changes, and the impact of these changes on primary care teaching programs.

57. Demonstration projects for requiring second opinions for certain elective surgical procedures under medicare and medicaid; application of informed consent to certain demonstration projects

House bill.—The House bill authorizes demonstrations to determine the cost-effectiveness and appropriateness of mandating second opinions, with 100 percent reimbursement, for certain elective surgical procedures; and also provides that no beneficiary shall be required to participate in such a demonstration unless he or she has given informed consent.

Senate amendment.—No provision.

Conference agreement.—The conference agreement does not include the House provision.

58. Continued use of demonstration project reimbursement systems

House bill.—The House bill requires medicare to continue to reimburse hospitals located in a state which has been conducting a cost containment demonstration in accordance with the system used in the State's demonstration when the demonstration project ends, provided the State program meets certain tests of effectiveness in controlling costs and the State elects to continue the reimbursement system.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows the House bill with modifications to provide: (1) that the Secretary is authorized but not required to continue participating in the State's reimbursement system until such time as the State's reimbursement system is no longer applicable to all third-party payors or no longer meets the required tests of effectiveness in controlling costs, except that in the case of any State which has had a cost containment demonstration project reimbursement system in continuous operation since July 1, 1977 (as in the case, for example, of the State of Maryland) the Secretary is required to provide for the continuation of medicare reimbursement in accordance with the State's reimbursement system until the Secretary determines that the State's reimbursement system is no longer applicable to all third party payors or no longer meets the required tests of effectiveness in controlling costs; and (2) the Secretary may establish no more than six Statewide medicare hospital reimbursement demonstration projects, including in this limitation any such projects initiated before the enactment of this legislation.

59. Reimbursement for health maintenance organizations (HMO's)

House bill.—The House bill permits reimbursement to HMO's on the basis of a prospectively determined per capita amount equal to 95 percent of the cost of providing medicare benefits to beneficiaries outside the HMO; the difference between the HMO's community rate and medicare reimbursement would be returned to beneficiaries as additional benefits.

Senate amendment.—No provision.

Conference agreement.—The conference agreement does not include the House provision.

60. Temporary delay in periodic interim payments (PIP)

House bill.—The House bill amends the PIP procedure for hospitals, under which hospitals may receive periodic interim payments from medicare which are not directly tied to the receipt of bills, to provide for a one-time deferral during the last month of Fiscal Year 1981 of amounts equal to three weeks of medicare payments.

Senate amendment.—The Senate amendment contains a comparable provision.

Conference agreement.—The conference agreement includes the House provision.

61. Criteria for determining reasonable cost of hospital services

House bill.—No provision.

Senate amendment.—The Senate amendment specifies in detail a new reimbursement method for routine operating costs of hospitals and establishes a Health Facilities Costs Commission to recommend reimbursement refinements.

Conference agreement.—The conference agreement does not include the Senate provision.

62. Payments to promote closing and conversion of underutilized facilities

House bill.—No provision.

Senate amendment.—The Senate amendment provides for reimbursement for capital-related and increased operating costs associated with closing or conversion to approved use of underutilized beds or services in hospitals.

Conference agreement.—The conference agreement does not include the Senate provision.

63. Apportionment of provider costs

House bill.—No provision.

Senate amendment.—The Senate amendment provides for the retention, through March 1981, of the 8½ percent routine nursing salary cost differential. Beginning April 1, 1981, the bill prohibits reasonable cost reimbursement exceeding the proportional share of cost (such as the 8½ percent differential) unless the Comptroller General, with the Secretary's agreement, justifies a higher share in particular circumstances for certain facilities. The Comptroller General would report to the Secretary before October 1, 1981, on the results of a study on the extent to which higher payments are justified. After October 1, 1981, any higher payments found justified could be made, retroactive to April 1, 1981.

Conference agreement.—The conference agreement does not include the Senate provision.

64. Criteria for determining reasonable charge for physicians services

House bill.—No provision.

Senate amendment.—The Senate amendment requires statewide median charges to be calculated for physicians' services in addition

to local prevailing charges. No local prevailing charge would be increased, in the annual update, to the extent that it exceeded the statewide median by more than one third. In localities designated as physician shortage areas, a new physician could establish his customary charges at the "prevailing" level (i.e., generally, at the 75th, rather than the 50th, percentile) of customary charges in the locality.

Conference agreement.—The conference agreement does not include the Senate provision.

65. Procedures for determining reasonable cost and reasonable charge

House bill.—No provision.

Senate amendment.—The Senate amendment excludes from reimbursement under medicare, medicaid and maternal and child health programs any element of a cost or charge which represents a commission, finder's fee, or rental or lease which is based on a percentage or similar arrangement. Exceptions are provided for certain percentage arrangements in customary commercial practice; and for hospital-based physician arangements if reimbursement does not exceed an amount that would be reasonably paid under an appropriate relative value scale. Within two years of enactment, the Secretary is to report recommendations on hospital-based physician reimbursement.

Conference agreement.—The conference agreement does not include the Senate provision.

66. Limitation on reasonable cost and reasonable charge for outpatient services

House bill.—No provision.

Senate amendment.—The Senate amendment requires the Secretary to establish by regulation limits on costs or charges for outpatient services provided by hospitals, community health centers or clinics and physicians utilizing these facilities. Limits are to be based on reasonableness of these costs or charges in relation to reasonable charges of physicians in same area for similar services provided in their offices.

Conference agreement.—The conference agreement does not include the Senate provision.

67. Home health agency reimbursement limits

House bill.—No provision.

Senate amendment.—The Senate amendment would limit medicare home health reimbursement to the 75th percentile of weighted average per visit costs. Also, skilled nursing and home health aide visit reimbursement would be limited to amounts per visit not exceeding medicaid per diem rates in the State for skilled nursing facility services.

Reimbursement would be provided for an initial patient assessment visit, and required supervisory visits would be reimburseable as home health aide visits (but not counted toward any limit on number of covered visits).

Conference agreement.—The conference agreement does not include the Senate provision.

68. Determination of reasonable charge

House bill.—No provision.

Senate amendment.—The Senate amendment provides for medicare reasonable charges to be determined based on the fee schedules in effect as of the date the medical service was rendered rather than the date the medicare claim is processed.

Conference agreement.—The conference agreement includes the Senate provision.

II. MEDICAID-ONLY PROVISIONS

1. Reimbursement under medicaid for services furnished by nurse midwives

House bill.—The House bill requires States to provide coverage under their medicaid programs for services furnished by a nurse midwife which he or she is legally authorized to perform under State law or regulation.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision.

2. Continuing medicaid eligibility for certain individuals by disregarding certain involuntary increases in income

House bill.—The House bill requires States, in determining the continuing eligibility of beneficiaries of their medicaid programs, to exclude from the calculation of an individual's income any cost-of-living or annual increase in Social Security, Veterans', Railroad Retirement, or Civil Service Retirement benefits, annuities, pensions, or other compensation.

Senate amendment.—No provision.

Conference agreement.—The conference agreement does not include the House provision.

3. Limitation on medicaid eligibility for individuals who dispose of resources

House bill.—The House bill authorizes States, under their medicaid programs, to delay eligibility for coverage for specified periods of time (up to 24 months, depending upon the amount transferred) if, within 2 years preceding application for coverage, an individual had disposed of resources with an uncompensated value of $6,000 or more for the purpose of establishing medicaid eligibility. The House bill also authorizes States to recover from the individual to whom resources are transferred for less than current market value the lesser of (1) the medicaid payments provided during the period of ineligibility to the person who transferred the assets, or (2) the amount by which the uncompensated value of the resources exceeds $6,000.

Senate amendment.—No provision specific to medicaid. (See Item 1, Public Assistance Provisions, relating to limitations on SSI eligibility for individuals who transfer resources.)

Conference agreement.—The conference agreement does not include the House provision.

4. Adjustment of dollar limitation and elimination of special limitation on medicaid payments to Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, American Somoa, and the Trust Territory of the Pacific Islands

House bill.—The House bill increases the ceilings on Federal medicaid matching payments in fiscal year 1980 to Puerto Rico, and in fiscal years 1981 and 1982 for Puerto Rico, Guam, and the

Virgin Islands. The House bill also provides for an adjustment in these ceilings in subsequent fiscal years by a percent equal to the percentage increase in the Consumer Price Index, and for the determination of the Federal medicaid matching rates in these jurisdictions on the same basis as in other States. The House bill further authorizes participation in medicaid by the Northern Mariana Islands, American Samoa, and the Trust Territory of the Pacific Islands, with Federal matching payments subject to an annual ceiling with adjustments for inflation.

Senate amendment.—No provision.

Conference agreement.—The conference agreement does not include the House provision.

5. Extension of increased funding for long-term care facility inspectors under medicaid

House bill.—The House bill extends from September 30, 1980, through September 30, 1983 the 100 percent Federal matching rate for the costs of training and compensating State personnel responsible for conducting inspections of skilled nursing facilities and intermediate care facilities participating in medicaid to assure compliance with health and safety standards.

Senate amendment.—No provision.

Conference agreement.—The conference agreement does not include the House provision.

6. Extension of increased funding for State medicaid fraud control units

House bill.—The House bill authorizes Federal matching payments to the States for the costs of establishing and operating medicaid fraud control units meeting specified requirements at the rate of 90 percent for the initial 3-year period and 75 percent thereafter, subject to a quarterly limitation of the higher of $125,000 or one-quarter of one percent of total medicaid expenditures in the State in the previous quarter.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision.

7. Change in calendar quarter for which satisfactory utilization review must be shown to receive waiver or medicaid reduction

House bill.—The House bill prohibits the Secretary from assessing financial penalties against the States for failure to meet the requirements of medicaid law regarding utilization review of long-term services in institutional settings for periods prior to January, 1978.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision.

8. Expedited recovery for certain disallowed medicaid claims

House bill.—The House bill provides for recovery by the Secretary of Federal matching payments for State medicaid expenditures which are disallowed on or after October 1, 1980 by offsetting payments to the State which occur subsequent to the final notice of

disallowance. The House bill requires the Secretary to give a preliminary notice to the State of the intention to disallow payments at least 30 days prior to the date of the final notice of disallowance. If, upon conclusion of all appeals, the Secretary's disallowance is overturned, the House bill provides that the State be paid the amount disallowed plus interest (at a rate based on the average of the bond equivalent of the weekly 90-day Treasury bill auction rates during such period).

Senate amendment.—The Senate amendment provides for recovery by the Secretary of Federal matching payments for State medicaid expenditures which are disallowed on or after enactment by offsetting payments to the State which occur subsequent to the disallowance. If, upon conclusion of all appeals, the Secretary's disallowance is overturned, the Senate amendment provides that the amount disallowed be returned to the State with interest (at a rate equal to that on obligations issued for purchase by the Federal Hospital Insurance Trust Fund).

Conference agreement.—The conference agreement follows the House bill with a modification that authorizes States, after a final notice of disallowance by the Secretary, to retain Federal matching payments for all disallowed expenditures until the conclusion of the administrative appeals process. If the final administrative determination upholds the Secretary's disallowance, the conference agreement provides that the State must return the Federal payments to the Secretary, with interest (at a rate based on the average of the bond equivalent of the weekly 90-day Treasury bill auction rates during such period). With respect to notices of disallowance issued during fiscal year 1981, the States would be subject to interest penalties for no more than 12 months, regardless of the amount of time required to conclude the administrative appeals process. With respect to notices of disallowance issued after fiscal year 1981, the maximum period for which a State would be subject to interest penalties would be six months. In limiting the amount of interest recoverable by the Secretary in this manner, the conferees intend that the Secretary expedite the processing of State appeals from notices of disallowance. The provision is effective for disallowances of expenditures for services rendered on or after October 1, 1980.

9. Access to and purchase of medicaid services

House bill.—No provision. (See description of Item 55, Reimbursement of Clinical Laboratories under Medicare and Medicaid, under the House bill, relating to the purchase of laboratory services under medicaid.)

Senate amendment.—The Senate amendment deletes the provision in current medicaid law that entitles beneficiaries to obtain medical assistance from any institution, agency, community pharmacy, or person qualified to perform the covered service and instead authorizes States to limit or restrict beneficiary choice of institutional providers (including clinics), laboratory services, and medical devices. Under the Senate amendment, such limitations or restrictions must be cost-effective, assure reasonable access to services, and avoid a substantially adverse effect on access to hospitals with graduate medical education programs.

Conference agreement.—The conference agreement does not include the Senate provision.

10. Reimbursement rates under medicaid for skilled nursing and intermediate care facilities

House bill.—No provision.

Senate amendment.—The Senate amendment deletes the requirement in current law that SNFs and ICFs participating in the medicaid program be reimbursed on a reasonable cost-related basis and substitutes the requirement that States reimburse SNF and ICF services at rates that are reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to provide care in conformity with applicable State and Federal laws, regulations, and quality and safety standards.

Conference agreement.—The conference agreement follows the Senate amendment with a modification to clarify that, while the States have discretion to develop the methods and standards on which the rates of reimbursement are based, the Secretary retains final authority to review the rates and to disapprove those rates if they do not meet the requirements of the statute. The conferees intend that the Secretary exercise this review in a timely fashion. If, within 90 days of receiving the rates proposed to be used by a State, the Secretary has not made a final determination that the rates proposed meet all applicable requirements of medicaid law, then the rates would be presumed to meet the medicaid law requirements for the fiscal year for which they were proposed. The conferees would further note their intent that a State not develop rates under this section solely on the basis of budgetary appropriations. In determining whether the rates proposed by a State are reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities, the Secretary is not expected to approve a rate lower than the applicable legal requirements would mandate.

Title X—Other Social Security Act Programs; Unemployment Compensation

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I. PUBLIC ASSISTANCE PROVISIONS

1. Limitation on SSI eligibility for individuals who transfer resources

House bill.—No provision.

Senate amendment.—The Senate amendment would delay SSI eligibility in the case of an individual or eligible spouse who transferred resources for less than fair market value, if retaining such resources would have made them ineligible for SSI benefits. Such a transfer would cause a delay in eligibility of 24 months from the date of the disposal of the resources.

For 24 months after the transfer of resources, it would be presumed that the transfer had been made for the purpose of establishing eligibility for benefits or assistance under the Social Security Act (e.g., SSI, medicaid) unless such individual or eligible spouse furnishes convincing evidence to establish that the transaction was exclusively for some other purpose.

The provision would be effective with respect to applications for benefits filed on or after October 1, 1980.

Conference agreement.—The conference agreement does not include the Senate provision.

2. Delay in effective date of new HHS title XX child day care regulations

House bill.—No provision.

Senate amendment.—The Senate amendment provides that the standards for child day care services required under Title XX of the Social Security Act, or promulgated by the Department of HHS pursuant to Title XX, would not be applicable to child day care services provided during the period of July 1, 1980 to October 1, 1981, if the services meet applicable standards of State and local law.

Conference agreement.—The conference agreement follows the Senate amendment with an amendment which provides that the standards for child day care services required under Title XX law, or promulgated by the Department of HHS, would not be applicable to child day care services provided during the period of July 1, 1980 to July 1, 1981, if such services meet applicable standards of State and local law.

The agreement also provides that the Department of Health and Human Services shall assist each State in conducting a systematic assessement of current practices in Title XX funded day care programs and provide a summary report of the assessments to Congress by June 1, 1981.

3. Public assistance payments to territorial jurisdictions

House bill.—No provision.

Senate amendment.—The Senate amendment would reduce the ceiling on Federal matching funds for public assistance programs in Puerto Rico, Guam and the Virgin Islands from the fiscal 1979

levels of $72.0 million (Puerto Rico), $3.3 million (Guam), and $2.4 million (Virgin Islands) to the following levels (in millions):

	Fiscal 1980	Fiscal 1981
Puerto Rico	$36.00	$48.0
Guam	1.65	2.2
Virgin Islands	1.20	1.6

Conference agreement.—The conference agreement does not include the Senate provision.

4. Additional savings from enactment legislation

House bill.—The House bill makes reference to previously enacted provisions of law which further reduce spending for fiscal year 1981 in satisfaction of the reconciliation requirements. Included in this reference are Public Law 96-265, the Social Security Disability Amendments of 1980, and Public Law 96-272, the Adoption Assistance and Child Welfare Act of 1980. Title II of Public Law 96-265 includes provisions eliminating work disincentives under the Supplemental Security Income disability program. The law also contains various provisions improving the administration of the AFDC program, authorizing demonstration projects, and establishing a voluntary certification program for medicare supplemental health insurance policies. Public Law 96-272 makes a number of improvements in both the child welfare and title XX social services programs. This legislation includes provisions that will establish a ceiling on title XX training funds, encourage employment of welfare recipients as child care workers, disallow AFDC earnings disregards in the case of any income that is reported late, and permit States to prorate AFDC benefits to children to take into account the income of certain relatives living in the houshold.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes reference to additional savings in fiscal year 1981 spending reductions resulting from enactment of the Social Security Disability Amendments of 1980 (Public Law 96-265) and the Adoption Assistance and Child Welfare Act of 1980 (Public Law 96-272).

II. SOCIAL SECURITY PROVISIONS

1. Reallocation of taxes between OASI and DI trust funds

House bill.—No provision. However, the House passed separate legislation, H.R. 7670, (which contains language identical to the Senate amendment) on July 21, 1980.

Senate amendment.—The Senate amendment provides for a two year reallocation of OASDI tax revenues into the OASI and DI trust funds. The reallocation would increase revenues to the OASI trust fund and decrease them for the DI trust fund and would apply to calendar years 1980 and 1981 only.

Conference agreement.—The conference agreement does not include the Senate provision. Reallocation provisions identical to the Senate provision were passed by the Senate September 25, 1980 (H.R. 7670) and enacted into law on October 9, 1980 (P.L. 96-403).

2. Limitation on payment of retroactive social security benefits

House bill—No provision.

Senate amendment.—The Senate amendment limits the retroactive payment of social security benefits to a period of 3 months prior to the month in which application for benefits is made, decreasing the period from 12 months under present law.

Conference agreement.—The conference agreement limits benefit retroactivity to a period of 6 months prior to the month in which application for benefits is made, except for applications filed for disability benefits by disabled workers (and all family benefits thereunder) or benefits for disabled widows and widowers. Benefits applications for disabled workers, their dependents and disabled widow(er)s will continue to be made retroactive for up to 12 months as under present law. The provision is effective on the first day of the first month beginning 60 days after enactment.

3. Social security benefits for prisoners

House bill.—No provision.

Senate amendment.—The Senate amendment requires the suspension of workers and children's disability benefits to any individual who would otherwise be receiving them while he is imprisoned by reason of a felony conviction. The suspension applies except to the extent that a court of law specifically provides to the contrary as part of its approval of a plan of rehabilitation services to that individual. The exemption from suspension would last only for so long as the individual continues to participate satisfactorily in such rehabilitation program, which (as determined by the Secretary) is expected to result in his return to substantial gainful employment within a reasonable time after his release. Dependents' benefits would continue to be paid. The amendment also provides that an individual may not be considered to be a full-time student for purposes of social security student benefits while he is incarcerated. In addition, the amendment provides that disabilities to the extent that they arise from or are aggravated during the commission of a crime may not be considered in determining whether or not an individual qualifies for disability benefits. Impairments arising while an individual is in prison could not be considered for purposes of disability eligibility so long as the individual remains in prison.

Conference agreement.—The conference agreement does not include the Senate provision. However, a provision virtually identical to the Senate amendment was enacted into law separately in P.L. 96-473 (sec. 5) on October 10, 1980 (H.R. 5295).

4. Deferred transfer of Certain Tax Collections to the Trust Funds

House bill.—No provision.

Senate amendment.—The Senate amendment would reduce fiscal year 1981 budget authority, pursuant to reconciliation requirements in the First Budget Resolution, by providing that $0.6 billion, which would otherwise be transferred during September 1981 from the general funds of the Treasury into the social security and medicare trust funds, would be transferred on or after October 1, 1981. Also, the Secretary of the Treasury would be authorized to transfer amounts equal to the amount of interest which would have accrued to the trust funds had the transfer not been delayed.

Conference agreement.—The conference agreement does not include the Senate provision.

5. Additional Savings from Enacted Legislation

House bill.—The House bill makes reference to previously enacted provisions of law which further reduce spending for fiscal year 1981 in satisfaction of the reconciliation requirements. Included in this reference is Public Law 96-265 (H.R. 3236), the Social Security Disability Amendments of 1980. This law makes a number of changes in the disability insurance program designed to encourage disabled workers to return to work, increase equity among beneficiaries and strengthen the integrity of the program through provisions improving program accountability.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes reference to fiscal year 1981 spending reductions resulting from enactment of the Social Security Disability Amendments of 1980 (Public Law 96-265). Also incorporated in the conference report is reference to additional savings resulting from enactment of Public Law 96-473 (section 5) limiting the payment of social security benefits to certain incarcerated felons. (See Item 3, Social Security Benefits for Prisoners, above.)

III. UNEMPLOYMENT COMPENSATION PROVISIONS

1. Termination of special Federal funding of unemployment benefits paid to CETA workers

House bill.—The House bill terminates Federal reimbursement to States from the Federal Unemployment Benefit Account (FUBA) for unemployment compensation benefits paid to former CETA workers, effective for service performed in weeks which begin after October 1, 1980.

Under current law, the Comprehensive Employment and Training Act (CETA) requires that all persons employed in CETA public service jobs be provided unemployment benefits under the same conditions, and to the same extent, as other employees doing the same type of work. Any unemployment compensation benefits paid to former CETA workers are initially paid out of the State unemployment insurance trust fund. The State is then reimbursed from general revenues contained in the FUBA account for the amount of the unemployment compensation that was based on CETA public service employment. This reimbursement from the FUBA account would be terminated under the House bill.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows the House bill, effective for services performed in weeks which begin after date of enactment.

2. Increase in the period of active duty an individual must serve in the military for unemployment compensation purposes

House bill.—The House bill increases to 365 days the period of continuous active military service an individual must have in order for his or her military service to qualify as wages or employment for unemployment compensation purposes, effective for individuals who begin active service after October 1, 1980.

Federally funded unemployment benefits are provided to former military personnel upon their separation from military service if they meet the qualifying requirements of the State in which they apply for unemployment compensation. The military service of the individual qualifies as wages or employment in the determination of eligibility under the State unemployment compensation law only if (1) the person had served continuously for 365 days (90 days prior to enactment of P.L. 96-364) or more prior to separation and (2) the individual was separated under other than dishonorable or bad-conduct circumstances. If the individual meets these requirements, the entire period of military service can be counted when determining whether the individual meets the wages or employment qualifications of the State in which he or she files an application for benefits. The 365-day continuous service requirement does not apply where separation was the result of a service-incurred injury or disability.

Senate amendment.—The Senate amendment increases the 90-day continuous service requirement to "one-year," effective for individuals filing claims on or after October 1, 1980.

Conference agreement.—The House provision was enacted as part of Public Law 96-364 and, therefore, is not included in this conference agreement. (See Item 10, Additional Savings from Enacted Legislation, below.)

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3. Limitation on entitlement to extended benefits for individuals who change residence to a State in which such benefits are not "triggered on"

House bill.—The House bill limits an individual to no more than two weeks of extended benefits collected through an interstate claim filed in a State in which the extended benefits program is not "triggered on." The provision would be effective for weeks of unemployment beginning after October 1, 1980. However, the provision would not become a requirement of State law for any week which begins before June 1, 1981. Where a State legislature does not meet in 1981 in a regular session which begins before April 1, 1981, the provision would not be a requirement of State law until June 1, 1982.

Senate amendment.—The Senate amendment limits an individual to no more than two weeks of extended benefits if he or she changes residence to a State in which the extended benefits program is not "triggered on." The provision would be effective for weeks of unemployment beginning on or after October 1, 1980.

Conference agreement.—The House provision was enacted as part of P.L. 96-364 and, therefore, is not included in this conference agreement. (See item 10, Additional Savings from Enacted Legislation, below.)

4. Elimination of "national trigger" under extended benefits program

House bill.—No provision.

Senate amendment.—The Senate amendment eliminates the "national trigger" in the extended benefits program. Extended benefits would then be payable only in those States that meet one of the "State triggers," effective October 1, 1980.

Under the permanent Federal/State extended benefits program, up to 13 additional weeks of unemployment compensation are payable to individuals who exhaust their regular-State benefits if they reside in a State where the insured unemployment rate (IUR) is 4.0 percent (providing the IUR is 20 percent higher than it was in the preceding two years) or, at State option, if the State IUR is 5.0 percent ("State triggers"). These additional weeks of benefits are paid in all States if the national IUR is 4.5 percent ("national trigger").

Conference agreement.—The conference agreement does not include the Senate provision.

5. Waiting period for unemployment compensation benefits

House bill.—No provision.

Senate amendment.—The Senate amendment eliminates the Federal share (50 percent) of the cost of the first week of extended benefits in any State which does not have a "waiting week" for regular benefits, or which has a "waiting week" for which benefits are paid retroactively. This provision would be effective for extended benefits paid to individuals during eligibility periods beginning on or after October 1, 1980. However, in the case of a State in which State legislation is required in order to establish a "waiting week" or to eliminate retroactive payment for a "waiting week," this provision would first become effective for extended benefits payable for the period that begins after the end of the first regular-

ly scheduled session of the State legislature ending more than 30 days after enactment of this bill.

Under current law, twelve (12) States pay unemployment benefits starting with the first week of unemployment. The remaining States generally provide that benefits will become available only after the unemployed individual has served a "waiting week." Of these States, four (4) do not require "waiting week" under certain conditions. Nine (9) States that have a "waiting week" provision pay benefits retroactively for the "waiting week" after the individual has experienced a specific duration of unemployment.

Conference agreement.—The conference agreement follows the Senate amendment, with the October 1, 1980 effective date changed to date of enactment. The special effective date for States requiring legislative is retained.

6. Optional State trigger under the extended benefits program

House bill.—No provision.

Senate amendment.—The Senate amendment changes the current extended benefits law so that States would be allowed to set the optional State trigger rate at 5 percent or any insured unemployment rate in excess of 5 percent (e.g., 5.5 or 6 percent), effective for weeks of unemployment beginning after October 1, 1980.

Under the permanent Federal/State extended benefits program, up to a maximum of 13 additional weeks of benefits are payable to individuals who exhaust their regular State benefits if they reside in a State where the insured unemployment rate (IUR) is both 4.0 percent or higher and 20 percent above the level prevailing in the State in the 2 prior years. When the "20 percent" factor is not met, a State may, at its option, provide for the additional benefits to be payable when the State IUR equals or exceeds 5 percent. (39 States have incorporated the optional 5 percent trigger in their State law.)

Conference agreement.—The conference agreement does not include the Senate provision.

7. Establishment of separate account in the Federal unemployment insurance trust fund for benefits paid to former Federal employees

House bill.—No provision.

Senate amendment.—The Senate amendment requires the establishment of a special account within the Unemployment Insurance Trust Fund from which States would be reimbursed for the costs of unemployment benefits based on Federal employment. Each agency would be required to reimburse that account from its appropriations for the costs attributable to its employees. The provision would be effective for services performed by individuals after September 30, 1980.

Under current law, Federal employees may receive unemployment compensation if they meet the qualifying requirements of the State in which they were last employed. States are reimbursed by the Federal government for the cost of benefit payments to former Federal employees. At present, all such costs are funded through a single appropriation account within the budget of the Department of Labor rather than being charged to the appropriations of the employing agencies.

Conference agreement.—The conference agreement follows the Senate amendment effective for services performed by individuals after December 31, 1980.

8. Denial of extended benefits to individuals who fail to meet certain requirements related to work

Senate amendment.—The Senate amendment would:

(a) Deny extended benefits to an individual during a period of unemployment for which, under State law, he or she was disqualified from receiving State benefits because of voluntarily leaving employment, discharge for misconduct, or refusal of suitable employment, even though the disqualification was subsequently lifted prior to reemployment and the person received State benefits. However, the person could receive extended benefits if the disqualification is lifted because he or she became employed and met the work or earnings requirement specified in State law.

(b)(1) Deny extended benefits to any individual who fails to accept any work that is offered in writing or is listed with the State employment service, or fails to apply for any work to which he or she is referred by the State agency, if the work: is within the person's capabilities; pays wages equal to the highest of the Federal or any State or local minimum wage; pays a gross weekly wage that exceeds the person's average weekly unemployment compensation benefit plus any supplemental unemployment compensation payable to the individual; and is consistent with the State definition of "suitable" work with regard to provisions not specifically addressed in this amendment.

States would have to refer extended benefits claimants to any work meeting these requirements. If the State, based on information provided by the individual, determines that the individual's prospects for obtaining work in his or her customary occupation within a reasonably short period are good, the determination of whether any work is "suitable work" would be made in accordance with State law rather than the above.

(2) Extended benefits would be denied to any individual for so long as he or she fails to engage in a systematic and sustained effort to obtain work and fails to provide tangible evidence to the State agency that he or she has engaged in such an effort.

(3) Any individual who is denied extended benefits because of the requirements in (b)(1) or (b)(2) would continue to be ineligible to receive extended benefits until he or she had been employed for at least four weeks after the denial and earned wages equal to four times his or her average weekly unemployment compensation payment.

(c) Deny extended benefits to any individual with less than 20 weeks of qualifying employment in the base period.

Provisions (a), (b), and (c) would be effective for weeks of unemployment beginning on or after October 1, 1980.

Conference agreement.—The conference agreement follows part (a) and (b) of the Senate amendment, effective for weeks of unemployment beginning after March 31, 1981. The conference agreement does not include part (c).

9. Certification of State laws

House bill.—No provision.

Senate amendment.—The Senate amendment requires the Secretary of Labor, on October 31 of each taxable year beginning with taxable year 1980, to withhold certification of State unemployment compensation programs (for purposes of providing the credit against the Federal unemployment tax on employers in the State) for any State which has failed to amend its laws to comply with the preceding provisions, or which has, with respect to the 12-month period ending on such October 31, failed to comply substantially with such provisions.

Pursuant to the passage of previous Federal unemployment compensation requirements, the Secretary of Labor has been required to certify, on October 31 of each tax year, that a State has amended its laws to comply with current Federal unemployment compensation requirements. Failure of a State to receive from the Secretary such certification results in denial of the credit against Federal unemployment tax on employers in the State.

Conference agreement.—The conference agreement follows the Senate amendment, as it applies to those Senate provisions that were agreed to, beginning with taxable year 1981.

10. Additional savings from enacted legislation

House bill.—The House bill contains a provision (Item 2 above) which increases to 365 days the period of continuous active military service an individual must have in order for his or her military service to qualify as wages or employment for unemployment compensation purposes, effective for individuals who begin active service after October 1, 1980. On September 24, 1980, this provision was enacted in section 415 of Public Law 96-364, the Multiemployer Pension Plan Amendments Act of 1980.

The House bill also contains a provision (Item 3 above) which limits an individual to no more than two weeks of extended benefits collected through an interstate claim filed in a State in which the extended benefits program is not "triggered on." This provision is effective for weeks of unemployment beginning after October 1, 1980. On September 26, 1980, this provision was enacted in section 416 of Public Law 96-364, the Multiemployer Pension Plan Amendment Act of 1980.

Senate amendment.—The Senate amendment contained provisions similar to the House bill.

Conference agreement.—The conference agreement includes reference to sections 415 and 416 of Public Law 96-364 (H.R. 3904), Multiemployer Pension Plan Amendments Act of 1980. These sections provide additional savings in fiscal year 1981 by (a) increasing the length of service in the Armed Forces required for ex-servicemen to be eligible for unemployment benefits and (b) by terminating extended benefits when paid under an interstate claim in a State where the extended benefits period is not in effect.

IV. TRADE ADJUSTMENT ASSISTANCE PROVISIONS

1. Trade adjustment assistance program improvements (H.R. 1543)

House bill.—The House bill would delay the effective date of H.R. 1543 from the date of enactment to September 30, 1981. H.R. 1543, which passed the House on May 30, 1979, amends Title II of the Trade Act of 1974 to improve the operation of the trade adjustment assistance programs for workers and firms. The bill corrects inequities in present program coverage, including extending benefits to adversely-affected workers and firms which supply parts or services essential to the production of import-impaired end products; increases certain adjustment allowances and benefit periods; increases technical and financial assistance for firms, establishes industry-wide technical assistance.

Senate amendment.—No provision.

Conference-agreement.—The conference agreement does not include the House provision.

Title XI—Revenue Measures

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TITLE XI—REVENUE MEASURES

A. Mortgage Subsidy Bonds

1. Single family owner-occupied residences

a. In general

House bill.—In general, the House bill is designed to direct the subsidy from the use of tax-exempt bonds for owner occupied housing to those individuals who have the greatest need for the subsidy, to increase the efficiency of the subsidy, and to restrict the overall revenue loss from the use of tax-exempt bonds for owner occupied housing. Under the house bill, interest on any bond generally is not tax-exempt if a significant portion of the proceeds are to be used for mortgages (or other financing) of owner-occupied residences. However, exceptions are provided in the case of qualified mortgage bonds and qualified veterans' mortgage bonds.

Senate amendment.—No provision.

Conference agreement.—The conference agreement adopts the House bill with various modifications. The conferees want to make it clear that it is not their intention to preempt States or localities from establishing limitations on the issuance of these bonds. However, no tax-exempt mortgage subsidy bonds can be issued which do not meet the requirements of the conference agreement. Further, the conference agreement is not intended to diminish in any way the authority of a State agency or commission charged with the protection of the State's credit pursuant to State law.

b. Qualified mortgage bonds

(1) Principal residence requirement

House bill.—All mortgages must be for single family residences which can reasonably be expected to become the principal residences of the mortgagors. The residences must be located within the jurisdiction of the issuing authority.

Senate amendment.—No provision.

Conference agreement.—The conference agreement generally follows the House bill but clarifies that mortgage subsidy bonds can be used to finance the mortgage of a building which contains up to four family units if at least one of the units is owner occupied and if the building had been used as a residence for at least 5 years before the mortgage is executed, subject to the other requirements of the conference agreement. Where a building that is financed by mortgage subsidy bonds contains more than one but less than five family units, the units which are not owner occupied may be leased by the owner occupier without meeting the multi-family provisions of the conference agreement so long as the bonds are not industrial development bonds. The special rule adopted by the conference agreement for buildings which contain not more than four family units does not limit the use of mortgage subsidy bonds to finance mortgages on an individual unit in a condominium or a share in a

cooperative housing corporation which are treated as single family residences under the conference agreement.

(2) Three-year requirement

House bill.—Each mortgagor must not have been a homeowner within the last 3 years. However, exceptions to the 3-year rule are provided for rehabilitation loans, for home improvement loans, and for mortgages or residences located in targeted areas.

A loan qualifies as a rehabilitation loan if the residence is at least 20 years old at the time of the rehabilitation, 75 percent or more of the external walls of the residence are retained, and the rehabilitation costs are 25 percent or more of the mortgagor's basis in the residence (after the rehabilitation).

Home improvement loans are loans in an amount not in excess of $15,000 for certain alterations or repairs for existing single family residences.

For this purpose, the conference agreement makes clear that home improvement loans include loans made for energy conservation property and solar energy equipment. In addition, the conferees intend that the guidelines used for determining eligibility for insurance under Title I are to be used on an interim basis in determining what items qualify for home improvement loans until regulations are promulgated.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows the House bill.

(3) Income limitations

House bill.—The income of each mortgagor must not exceed 115 percent of the median family income in the Standard Metropolitan Statistical Area (SMSA), or county, if not in an SMSA, in which the residence is located. In the case of targeted areas, no more than one-third of the mortgagors can have incomes in excess of 140 percent of median family income for the State or the SMSA where the residence is located, whichever is higher. Both in targeted and nontargeted areas, 50 percent of the mortgage funds must go to families with incomes of 90 percent or less of the median family income in the SMSA.

Senate amendment.—No provision.

Conference agreement.—The conference agreement deletes all of the income limitations of the House bill. The conferees deleted these limitations because they believe that State and local governments should have sufficient flexibility in this area to design programs for their particular needs. However, the conferees expect that State and local governments will use mortgage subsidy bonds primarily for persons of low or moderate income.

(4) Targeted areas

House bill.—Targeted areas are defined as follows:

(a) census tracts in which 70 percent of the families have incomes of not more than 80 percent of statewide median income, or

(b) areas of chronic economic distress as defined by States, subject to the approval of the Secretaries of Treasury and Housing and Urban Development. Criteria used by Treasury and HUD to evaluate a proposed targeted area designation are: (1) the condition of

the housing stock, including age and number of abandoned and substandard units, (2) the need of area residents for owner-financing, as indicated by a high percentage of families in poverty, low per capita income, high numbers of welfare recipients, and high unemployment rates, (3) the potential for use of tax-exempt mortgage bonds for financing ownership to improve conditions in the area, and (4) the existence of a housing assistance plan which provides a displacement program and a public improvements and services program (similar to that required by HUD under its community Development Block Grant program).

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows the House bill.

The conferees want to clarify the requirement regarding the determination of targeted areas based upon the most recent decennial census for which data are available and upon the designation of areas of chronic economic distress. With respect to any particular bond issue, that determination may be made three months prior to the date of issuance.

(5) Purchase price limitation

House bill.—The purchase price of each residence must not exceed 80 percent of the average purchase price in the preceding year in the SMSA in which the mortgage is placed. In the case of targeted areas, the percentage would be 110 percent of the average purchase price in the SMSA. Average purchase price means average purchase price of a new home in the case of a purchase of a new home and average purchase price of an existing home in the case of the purchase of an existing home. In the case of home improvement loans, the purchase price limitation would not apply.

Senate amendment.—No provision.

Conference agreement.—The conference agreement generally follows the House bill except that the purchase price limitation in non-targeted areas is increased from 80 percent to 90 percent of the average purchase price in the preceding year in the SMSA in which the mortgage is placed.

In addition, the conference agreement adopts a special rule for determining the purchase price limitation in the case of mortgages on buildings (other than condominiums and cooperative housing corporations) that have more than one but less than 5 family units. In such a case, separate purchase price limitations are to be applied for one-family residences, two-family residences, three-family residences, and four-family residences.

(6) New mortgage requirement

House bill.—Except for construction period loans, bridge loans or similar temporary initial financing, and an existing mortgage in the case of a rehabilitation loan, none of the bond proceeds can be used to acquire or replace an existing mortgage.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows the House bill.

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(7) Low downpayment requirement

House bill.—At least 75 percent of the lendable proceeds (other than for rehabilitation loans and home improvement loans) must be used for mortgages which have a 95-percent loan to value ratio. In addition, certain graduated payment mortgages with as low as a 90-percent loan to value ratio will qualify for purposes of the 75-percent requirement.

Senate amendment.—No provision.

Conference agreeement.—The conference agreement deletes the low down payment requirement of the House bill.

(8) Assumptions of mortgages

House bill.—Individuals assuming a mortgage originally financed with tax-exempt bonds must meet the principal residence requirement, the three-year requirement, the purchase price limitation, and the income limitation.

Senate amendment.—No provision.

Conference agreement.—The conference agreement generally follows the House bill except it deletes the requirement that the person assuming the mortgage meet the income requirements of the House bill since income limits were deleted by the conference agreement.

(9) Market limitations

House bill.—The total amount of housing bonds that could be issued in a State each year would be limited to the greater of $50,000,000 or 5 percent of the average of all mortgages originated in that State in the preceding 3 years. The limit is to be allocated among governmental units within a State first on the basis of mortgages originated in the smallest jurisdiction having authority to issue housing bonds. This allocation can be changed by agreement among issuing subdivisions or by State statute.

Senate amendment.—No provision.

Conference agreement.—The conference agreement generally follows the House bill with two exceptions. First, it increases the market share limitation from the greater of $50,000,000 or 5 percent of the average of all mortgages originated in the State in the preceding 3 years to the greater of $200,000,000 or 9 percent of the average of all mortgages originated in the State in the preceding 3 years. In addition, the conference agreement modifies the way the limit is allocated among governmental units within the State.

The State ceiling is the greater of $200,000,000 or 9 percent of the average of all mortgages originated in the State in the preceding 3 years. The 9 percent State ceiling is to be computed in the same manner and using the same mortgages that were used in the House bill in computing the 5 percent limitation except the data are to be determined on a State-wide basis.

Thus, only mortgages on single family residences are to be used in determining the market limitation whether or not buildings with up to four family units are financed under the mortgage bond program. In the case of mortgages on buildings with more than one family unit, the full amount of the mortgage is counted toward the market limitation and not just the portion allocable to the owner-occupied unit.

The State ceiling is then allocated among the various governmental units within the State that can issue mortgage subsidy bonds pursuant to a three-step rule.

Under the first step, the State ceiling is allocated equally between State housing agencies and localities until either the governor or the legislature makes a different allocation. One-half of the State ceiling is allocated to all State agencies that have authority to issue mortgage subsidy bonds. The other one-half of the State ceiling is allocated to localities that have authority to issue mortgage subsidy bonds in the same manner as provided for allocating the ceiling in the House bill. Thus, where more than one governmental unit has authority to issue mortgage subsidy bonds to finance mortgages on residences in the same geographical area, a portion of the State ceiling is allocated to the governmental unit with jurisdiction over the smallest geographic unit. The portion is determined by multiplying the State ceiling by a fraction the numerator of which is the average amount of mortgages placed in that governmental unit during the previous 3 years and the denominator of which is the total amount of all mortgages placed in the State during the same 3 previous calendar years. As under the House bill, a small governmental unit can enter into an agreement with the governmental unit having the next largest geographical area to allocate all or a designated amount or portion of the mortgages on residences within the smaller governmental unit to the larger governmental unit for purposes of computing the amount of the State ceiling allocated to both the small governmental unit and the next larger governmental unit.

Under the second step, the governor of the State is delegated the power to allocate the State ceiling among the governmental units having authority to issue mortgage subsidy bonds in any way he determines. Under this delegation of authority, the governor may allocate all or any amount or portion of the State ceiling to any governmental unit in the State, that has authority to issue mortgage subsidy bonds. This power of the governor to allocate the State ceiling terminates at the earlier of the first day of the calendar year beginning after the first calendar year after 1980 during which the legislature of the State met in regular session or the effective date of any State legislation with respect to the allocation of the State ceiling enacted after the date of enactment of this bill.

Under the third step, the State legislature may enact a law providing for a different allocation than that provided in step one. Under this authority, the State may allocate all or any amount or portion of the State ceiling to any governmental unit in the State that has authority to issue mortgage subsidy bonds.

The conference agreement provides a special allocation rule to certain political subdivisions with home rule powers. The home rule subdivisions to which the special allocation rule applies are those home rule subdivisions that are granted home rule powers by the beginning of the calendar year in which the bonds are issued pursuant to a State constitution that was adopted in 1970 and became effective on July 1, 1971 (Illinois). In that State, the full portion of the State ceiling is allocated to each home rule subdivision. The portion is determined by multiplying the State ceiling (i.e., the greater of $200,000,000 or 9 percent of average mortgages) by a fraction the numerator of which is the average amount of

mortgages placed in the home rule subdivision during the 3 previous calendar years and the denominator of which is the total amount of all mortgages placed in the State during the same 3 previous calendar years. The amount so allocated to home rule subdivisions cannot be altered by the power to provide a different allocation which the conference agreement grants to the governor or the State legislature described above. However, a home rule subdivision can agree to a different allocation.

The remaining portion of the State ceiling (i.e., the State ceiling reduced by the amount allocated to home rule subdivisions) is then allocated among the other governmental units in the State that have authority to issue mortgage subsidy bonds under essentially the same three steps described above.

Thus, under the first step, one half of the remaining State ceiling is allocated to all State agencies that have authority to issue mortgage subsidy bonds. The other one half of the remaining State ceiling is allocated to the localities outside of the home rule subdivisions. The amount of the remaining State ceiling that is allocated to each governmental unit that is not a home rule subdivision is determined by multiplying the remaining State ceiling by a fraction the numerator of which is the average amount of mortgages placed in that governmental unit during the 3 previous years and the denominator of which is the total amount of all mortgages placed in the State outside of the home rule subdivisions during the same 3 previous calendar years.

Under the second and third steps described above, the governor or State legislature can allocate the remaining State ceiling to any governmental units that have authority to issue mortgage subsidy bonds (including home rule subdivisions), but they cannot allocate the amount specially allocated to the home rule subdivisions.

(10) Required targeted portion

House bill.—If an issuing jurisdiction includes a targeted area, at least 20 percent of the lendable proceeds of a bond issue must be made available for at least one year for mortgage loans in the targeted areas in the issuing jurisdiction. This amount need not exceed 40 percent of the market share of the targeted areas.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows the House bill.

(11) Multiple originators' requirement

House bill.—There must be more than one person who originates mortgages from the bond proceeds, unless there is only one willing and able originator or there is a sound public purpose for using only one originator.

Senate amendment.—No provision.

Conference agreement.—The conference agreement deletes the multiple originators' requirement of the House bill.

(12) Bond issue approval

House bill.—All bonds must be submitted to a State agency for the agency's opinion as to whether or not the issue meets the market limitation and targeted portion requirement. The State agency must issue an opinion within 30 days after submission.

Senate amendment.—No provision.

Conference agreement.—The conference agreement deletes the bond issue approval requirement of the House bill.

(13) Arbitrage restrictions

House bill.—The effective interest rate on mortgages to homeowners is limited to 1.0 percentage point above the yield to maturity to the purchasers of the bonds, calculated on the date of issuance. In addition, arbitrage is not permitted on reserves that exceed 150 percent of the annual debt service on the bonds. Finally, arbitrage earnings other than the 1.0 percentage point on home mortgages must be returned to the mortgagors.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows the House bill. However, the conferees wish to clarify several provisions of the conference agreement dealing with arbitrage. The first provision involves the determination of the effective rate of interest on the mortgages. The conference agreement requires that amounts that are taken into account in determining the effective rate of interest are to be discounted, from the time the amounts are received, to an amount equal to the "purchase price" of the mortgages. Because the yield on the bonds ordinarily is computed on a semi-annual basis, the conferees intend that the computation of the effective interest rate on mortgages should use the same semi-annual compounding interval as is used on the bonds. Under this method, monthly mortgage payments that are received before an interest payment date for the bonds are treated as received as of the next succeeding interest payment date.

The second point the conferees wishes to clarify is that any losses on mortgage payments (after taking into account foreclosure proceedings and insurance) are taken into account in determining the effective interest rate. In determining the anticipated losses, the most recent experience of defaults for the area where the mortgages are to be placed is to be used.

The third provision the conferees desire to clarify involves the use of arbitrage on nonmortgage investments to compensate the issuer for any losses on mortgages. If the actual losses (after foreclosure proceedings and insurance payments) exceed the anticipated losses taken into account in determining the effective interest rate, the issuer may use arbitrage from nonmortgage investments to recoup the excess losses. The amount of arbitrate so used would not have to be paid or credited to the mortgagors.

The conferees also want to clarify the requirement of the conference agreement that arbitrage on nonmortgage investments be paid or credited to the mortgagors as rapidly as practicable. The conferees understand that this requirement is satisfied if the arbitrage is paid or credited to such mortgagor at the time the mortgagor discharges his mortgage. Thus, at the time of any prepayment by the mortgagor of the entire principal amount of his mortgage (or at the last regular payment which discharges the mortgage), the mortgagor must be paid or credited with his allocable share of the cumulative amount of net arbitrage. In the case of prepayments, the cumulative amount of net arbitrage may be determined as of a date before the actual prepayment, but not more than one year earlier than the date of the prepayment.

(14) Termination ("sunset")

House bill.—The issuance of qualified mortgage bonds would be permitted under the above rules only for 2 years from the date of enactment. After that time, the issuance of such bonds would be prohibited.

Senate amendment.—No provision.

Conference agreement.—The conference agreement provides that the issuance of qualified mortgage bonds would be permitted until December 31, 1983. After that date, the qualified mortgage bonds could not be issued.

(15) Registration

House bill.—All tax-exempt housing bonds issued after the date of enactment must be in registered form.

Senate amendment.—No provision.

Conference agreement.—The conference agreement generally follows the House bill except that it delays the effective date of the registration requirement from bonds issued after the date of enactment to bonds issued after December 31, 1981.

(16) Advance refunding

House bill.—No advance refunding of mortgage subsidy bonds will be permitted after the date of enactment.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows the House bill.

c. Qualified Veterans' mortgage bonds

(1) Residences for veterans

House bill.—Substantially all of the proceeds from the bonds must be used to provide residences for veterans.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows the House bill.

(2) New mortgage requirement

House bill.—Except for construction period loans, bridge loans or similar temporary initial financing, and an existing mortgage where the residence is substantially rehabilitated, none of the proceeds of the bonds can be used to replace or acquire an existing mortgage.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows the House bill.

(3) General obligation requirement

House bill.—Both the principal and interest of the bond must be secured by the general obligation of a State.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows the House bill.

(4) Registration

House bill.—All tax-exempt housing bonds issued after the date of enactment must be in registered form.

Senate amendment.—No provision.

Conference agreement.—The conference agreement generally follows the House bill, except that it delays the effective date of the registration requirement from bonds issued after the date of enactment to bonds issued after December 31, 1981.

(5) Advance refunding

House bill.—No advance refunding of mortgage subsidy bonds will be permitted after the date of enactment.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows the House bill.

d. Transitional rules

House bill.—The House bill applies to bonds issued after April 24, 1979, with three major exceptions and a number of exceptions for limited cases. The three major exceptions are as follows:

a. Official action

Tax-exempt housing bonds may be issued if, prior to April 25 1979, the governing body of the unit having authority to issue the bonds had taken official action which indicated an itent to issue such bonds. A qualifying official action would include an authorization to hire bond counsel, an authorization to hire bond underwriters, or an authorization to make a market analysis with respect to a specified bond issue. Such authorization must be a specific authorization relating to a specified bond isse.

In the case of a sized or tentatively sized bond issue, only the amount of bonds the issuer reasonably intended to issue based on the documentation that existed before April 25, 1979, will qualify under this rule.

In case of an unsized bond issue, only an amount of bonds (exclusive of issuance costs and a reasonably required reserve) equal to the amount of mortgages for which the lenders had given firm commitments to home buyers within 9 months after the bonds are issued will qualify under this rule. Bond proceeds for which commitments were not made within 9 months from the issuance date of the bonds must be used to redeem bonds.

b. Rollover rule

Tax-exempt indebtedness outstanding on April 24, 1979, may be rolled-over where the maturity date of the tax-exempt housing bonds is no longer than 2 years after the life of the initial mortgages on the properties.

c. Special rule for projects under development

Tax-exempt housing bonds for the financing of projects in the development stage may be issued where, prior to April 25, 1979.

(1) substantial expenditures had been made for detailed plans and specifications, and

(2) tax-exempt construction financing had been issued with respect to the project or there exists written evidence that a

governmental unit intended to issue tax-exempt bonds to finance the acquisition of the units by home buyers.

Senate amendment.—No provision. However, the Senate adopted an amendment to the supplemental appropriations bill that indicated the sense of the Senate that any bill restricting the use of mortgage subsidy bonds would not apply to bonds issued prior to January 1, 1981, so long as the proceeds of the bonds are committed to home purchasers within one year from the date of issue. The amendment was deleted from the bill in conference.

Conference agreement.—The conference agreement generally adopts the transitional rules in the House bill with several technical corrections. In addition, the conference agreement provides a general exception for bonds issued before January 1, 1981, and adds several additional special rules.

General rule

Under the conference agreement, the new rules that apply to the issuance of qualified mortgage bonds shall not apply to obligations issued before January 1, 1981, if these issues meet certain other criteria. Such obligations, if issued before January 1, 1981, will qualify, if they are part of an issue from which substantially all of the proceeds are committed by firm commitment letters within one year after the date of issue of the obligations. Commitment of substantially all of the proceeds allows use of a portion of the proceeds to meet issuance costs and provide for a reasonably required reserve. Firm commitment letters are identical to letters of firm commitment used when financing is provided from other sources than tax-exempt bonds.

Technical corrections

The technical corrections made by the conference agreement to the House transitional rule are as follows.

Section 904(b)(4) of the conference report relating to the date of a local referendum is modified to correct a technical error to show the correct date of the referendum as June 12, 1979.

Section 904(d)(3) of the conference report relating to the timing of resolutions before a city council and enactment of State authorizing legislation is modified to correct technical inaccuracies that do not affect the substance of the rule in the House-passed bill.

Section 904(d)(4) which relates to the date of a resolution that delayed completion of an issue because of interest charges is modified to insert the correct date of the resolution.

Section 904(h)(2) is modified by correcting the title of the National Housing Act.

Section 904(m)(3) is modified to extend the time limit for commitment letters to December 31, 1981.

Registration requirement

Section 904(i) relating to the requirement that all obligations issued as qualified mortgage bonds under the authority of this conference agreement must be in registered form is amended to require such registration for all obligations under this agreement issued after December 31, 1981. The registration requirement applies to obligations issued under the permanent rules and the transitional rules after the effective date.

Special transitional rule for loans to lenders

The conference agreement includes a provision under which obligations may be issued during 1981 and 1982 as part of a loans to lender program. The amounts of the obligations issued under the loans to lender program will be included with the amount issued by the State housing finance agency under the limitation established by the conference agreement.

A qualified loans to lender program means any program, that has been established in accordance with legislation enacted by the State of New York in 1970, which finances the purchase of existing mortgages from financial institutions and requires that the financial institutions reinvest the proceeds in new mortgages within 90 days.

New mortgages made by financial institutions with the proceeds received from the sale of old mortgages to the State of New York Mortgage Agency (SONYMA) must meet the requirements established by the conference agreement with respect to new mortgages financed with mortgage revenue bonds. Because this is a special rule to accommodate a transitional problem, the requirements within the conference report with respect to low or moderate income rental housing and the arbitrage rules pertinent mortgage revenue bonds will not apply during 1981 and 1982 to new mortgages by financial institutions using proceeds from the SONYMA loans to lender program. No inference is implied in this conference agreement dealing with mortgage revenue bonds with respect to the arbitrage rules which are in effect in section 103(c) of the Internal Revenue Code.

Certain additional transitional rules

The conference agreement adds transitional authority to issue tax-exempt mortgage revenue bonds for seven specific projects in enumerated jurisdictions for specific purposes. In each case, the authority granted to a city or county may be used only by the appropriate issuing authority for that city. The amount specified in this subsection for a city shall be the maximum amount of obligations which may be issued by the appropriate issuing authority under the authority granted for the specific purpose of the issue. The obligations may be issued only for the purposes listed in this subsection of the conference agreement.

The areas ceiling amount for each area, and the purpose of the issues are listed below.

2. Multi-family rental housing

a. General rule

House bill.—The present exception for tax-exempt industrial development bonds would be limited to obligations substantially all the proceeds of which are to be used for multi-family rental housing projects in which at least 20 percent of the units are to be occupied by individuals of low or moderate income, determined in a manner consistent with the Leased Housing Program under Section 8 of the United States Housing Act of 1937.

Senate amendment.—No provision.

Conference agreement.—The conference agreement generally follows the House bill except that, in projects located in a qualified

census tract or an area of chronic economic distress, at least 15 percent of the units are to be occupied by individuals of low or moderate income. For projects located in areas which are not in a qualified census tract or an area of chronic economic distress, the 20 percent requirement of the House bill is retained. The conferees want to clarify that the method for determining income in effect at the time of the bond issuance will be determinative for that issue even though they are subsequently changed.

The conference agreement adds a rule to the small issue exemption of Code section 103(b)(6) to insure that the small issue exemption is not used as a means of circumventing the multi-family rental provisions of the conference agreement. Under that rule, the small issue exemption would not apply to any obligation which is used as a part of an issue a significant portion of the proceeds of which are to be used directly or indirectly to provide residential real property for family units. In addition, the conferees want to clarify that interest on an industrial development bond a significant portion of which is used to provide residential real property for family units will be tax-exempt only if it meets the multi-family rental requirements of the conference agreement or the limited exception for the New York State Loan to Lenders Program regardless of whether the bond is a qualified mortgage bond or a qualified veterans' mortgage bond.

Also, the conference agreement provides a special rule similar to that in the House bill for bonds issued before January 1, 1984 (and which do not come within the transitional rules) under which the 20 percent requirement need be met only for a period of 20 years. The 20-year period begins on the first date that the project is available for occupancy and the tax-exempt obligations are outstanding. Under this rule, the 20 percent test will be met where the developer of the project has entered into a contract with a Federal or State agency that requires that at least 20 percent of the units be maintained for persons of low or moderate income for a period of at least 20 years and provides rent subsidies for such persons for that period.

b. Registration

House bill.—All tax-exempt bonds issued after the date of enactment must be in registered form.

Senate amendment.—No provision.

Conference agreement.—The conference agreement generally follows the House bill except that it delays the effective date of the registration requirements from bonds issued after the date of enactment to bonds issued after December 31, 1981.

City or county	Ceiling amount	Purpose of issue
Baltimore, Md	$100,000,000	Financing owner-occupied residences.
Port Arthur, Tex	175,000,000	For financing on new town in town project.
Minneapolis, Minn	25,000,000	Financing owner-occupied residences.
Minneapolis-St. Paul, Minn	235,000,000	Joint program for financing owner-occupied residences involving some UDAG grants and private financing.
Detroit, Mich	50,000,000	To issue obligations maturing before 1986 for construction on the Riverfront West project.
Brevard County, Fla	150,000,000	Financing owner-occupied residences.
Chicago, Ill	235,000,000	For financing on the Presidential Towers project.

c. Transitional rules

House bill.—The House bill applies to bonds issued after April 24, 1979, with three major exceptions and a number of exceptions for limited cases. The three major exceptions are as follows:

a. Official action

Tax-exempt housing bonds may be issued if, prior to April 25, 1979, the governing body of the unit having authority to issue the bonds had taken official action which indicated an intent to issue such bonds. A qualifying official action would include an authorization to hire bond counsel, an authorization to hire bond underwriters, or an authorization to make a market analysis with respect to a specified bond issue. Such authorization must be a specific authorization relating to a specified bond issue.

In the case of a sized or tentatively sized bond issue, only the amount of bonds the issuer reasonably intended to issue based on the documentation that existed before April 25, 1979, will qualify under this rule.

In the case of an unsized bond issue, only the amount of bonds (exclusive of issuance costs and a reasonably required reserve) equal to the amount of mortgages for which the lenders had given firm commitments to developers for a specific project within 9 months after the bonds are issued will qualify under this rule. Bond proceeds for which commitments were not made within 9 months from the issuance date of the bonds must be used to redeem bonds.

b. Rollover rule

Tax-exempt indebtedness outstanding on April 24, 1979, may be rolled-over where the maturity date of the ta-exempt housing bonds is no longer than 2 years after the life of the initial mortgages on the properties.

c. Special rule for projects under development

Tax-exempt housing bonds for financing of projects in the development stage may be issue if:

(1) a plan specifying the number and location of rental units was approved on or before April 24, 1979, by a governing body, or a State or local housing agency or a similar agency, and

(2) substantial expenditures for site improvement for the project have been incurred on or before such date.

Senate amendment.—No provision.

Conference agreement.—The conference agreement adopts the transitional provisions of the House bill with certain technical amendments (described above). In addition, the conference agreement provides that the amendment made by section 1102 and 1103 of the conference agreement shall not apply to obligations issued before January 1, 1981, where the construction of the project had begun, or the acquisition of the project occurs, before one year

after the date of issuance of the obligations. Finally, the conference agreement adopts additional special transitional rules for seven specific projects set forth above.

In addition, the conferees want to clarify the application of the House transitional rule for projects under development. The conferees intend that a project would qualify under this rule even though the project plans are modified to the extent of changing the specific location of structures within the project as long as the perimeter and the overall housing density of the project are not changed.

B. Cash Management Provisions—Estimated Tax Payments

House bill.—Under present law, corporations generally are required to pay 80 percent of their current year's tax liability in quarterly estimated tax payments during the taxable year. However, corporations are exempt from the penalty for underpayment of estimated tax if their estimated tax payments equal 100 percent of their prior year's tax liability.

For both corporations and individuals, the minimum tax is not subject to the estimated tax requirements.

The House bill provides, in general, that corporations whose taxable income exceeded $1 million in any of the three preceding taxable years would be required to pay estimated tax of at least 60 percent of current year's tax liability regardless of their prior year's tax liability.

Senate amendment.—Under the Senate amendment, large corporations would be required to pay at least 50 percent of current year's tax liability on a current basis. Furthermore, the proportion of the tax shown on the return (or the actual tax if no return is filed) that is to be paid currently by any corporation not relying on the prior year exceptions would be increased from 80 percent to 85 percent. Finally, both the add-on minimum tax for corporations and individuals and the alternative minimum tax for individuals would be subject to the same estimated tax requirements as the regular income tax.

Conference agreement.—The conference agreement follows the House bill.

C. Gains From Foreign Investment in U.S. Real Estate

1. General rule

House bill.—Nonresident aliens and foreign corporations ("foreign investors") would be subject to tax on the disposition of U.S. real property. Real property is intended to have the same meaning for this purpose that it has in the U.S. Treasury's model income tax treaty and thus it includes personal property associated with real property. Foreign investors would also be taxed on gain from the disposition of an interest in a U.S. real property holding organization (RPHO). The tax would be imposed regardless of whether or not the gain was effectively connected with a U.S. business or the seller was present in the United States.

Senate amendment.—Substantially the same as House bill.

Conference agreement.—The conference agreement follows the House bill and the Senate amendment.

2. Rate of tax

House bill.—All gains and losses from the disposition of U.S. real property interests would be treated as if they were effectively connected with a U.S. trade or business. Losses attributable to the U.S. real property from years prior to the year of sale would be allowed as deductions against the foreign investor's effectively connected U.S. gross income (including gains from real property sales) if the foreign investor elects under section 871(d) or 882(d) to be taxable on a net basis on its U.S. real property investment income.

Senate amendment.—Same as House bill, except that net gains from disposition of U.S. real property interests would be subject to tax at a minimum rate of 28 percent if that tax would be higher than the tax under the general rule. No tax would be due if net gains during the taxable year from the sale of U.S. real property interests do not exceed $5,000.

Conference agreement.—The conference agreement generally follows the House bill. However, certain aspects of the Senate amendment were retained in modified form so that the tax on foreign investors would be more comparable to the tax imposed on U.S. investors in similar circumstances. The impact of the Senate amendment on foreign investors would have been greater than the tax imposed on similarly situated U.S investors because the 28-percent minimum rate of the Senate amendment is higher than the capital gains rate imposed on long-term capital gains of U.S. investors who are not in the highest marginal tax brackets. In addition, the Senate amendment, in computing the tax, did not permit the use against U.S. real property gains or net losses which are effectively connected with another U.S. trade or business of the foreign investor or net losses from holding the U.S. real property interest which were attributable to prior years. The House bill, on the other hand, in many situations would have imposed a tax at rates lower than those imposed on similarly situated U.S. investors since the rate of tax would be determined with reference only to the foreign investor's income which was effectively connected with a U.S. trade or business. Since any other U.S. source investment income and all foreign source income of the foreign investor would not be taken into account, the rate of tax on the U.S. real estate gains of foreign investors (particularly if an installment sale were used to spread

the gain over several years) would generally be lower than that imposed on U.S. investors in similar circumstances. Consequently, the conferees decided, in the case of individuals, to impose the U.S. tax at a minimum rate of 20 percent of property gains (net of U.S. effectively connected losses) but otherwise to follow the approach of the House bill and generally to treat U.S. real property gains as gains effectively connected with a U.S. trade or business subject to the U.S. graduated capital gains rates and with full use of effectively connected losses against those gains.

3. Real property holding organizations (RPHOs)

House bills.—Corporation, partnership or trust would be an RPHO if, during the taxable year, the fair market value of its U.S. real property interests was at least 50 percent of the sum of the values of its (i) U.S. real property interests. (ii) interests in foreign real property, and (iii) other assets used in the trade or business "Look through" rules would apply where the entity had a controlling interest in another entity, and attribution rules would apply to determine whether a controlling interest existed.

In general, all grains from the disposition of an interest in an RPHO would be subject to tax. However, no tax would be imposed on sale of publicly traded stock in a corporation by a person who owned 5 percent or less.

Senate amendment.—Corporation, partnership or trust would be an RPHO if (a) at least a 50 percent interest in the entity is held by 10 or fewer persons, and (b) the fair market value of its U.S. real property interests is at least 50 percent of the value of all its assets (other than liquid assets).

U.S. tax treaties generally provide for a reduced rate of tax on dividends which might make it advantageous for a domestic corporation to distribute a U.S. real property interest to a shareholder in dividend form. To prevent this, the bill denies the recipient a basis step-up except to the extent that the corporation recognizes gain and the recipient pays U.S. income tax on the distribution. "Look-through" and attribution rules similar to the House bill would apply. All gains from disposition of an interest in an RPHO would be subject to tax.

Conference agreement.—The conference agreement generally follows the House bill with respect to domestic corporate RPHOs but adopts different rules for other entities as set forth below. Attribution rules similar to the House bill apply to determine whether there is a controlling interest in another entity but the "look through" rules apply to such an interest only with respect to assets actually held downward through the chain of ownership. U.S. corporations would be treated as RPHOs unless they elect to file returns establishing that less than 50 percent of their assets are U.S. real property interests.

(i) *Foreign corporations.*—Gain on the disposition of stock in a foreign corporation would not be subject to the tax imposed under the bill. Instead, the foreign corporation would be taxed on any distribution (whether or not in liquidation) of appreciated U.S. real property interests to its shareholders. Also, tax would be imposed if the property is sold in connection with a liquidation.

If the application of the provisions of section 897 or section 6039C to any foreign corporation would be barred by a treaty obligation of

the United States which provides that a permanent establishment of a foreign corporation in the United States may not be treated less favorably than a domestic corporation carrying on the same activities, then that foreign corporation may elect, subject to such terms and conditions as are specified by the IRS, to be treated as a U.S. corporation for purposes of sections 897 and 6039C. The election may be revoked only with the consent of the Secretary.

Conditions imposed by the IRS on the making of the election might, for example, include a requirement that the foreign corporation notify its shareholders that the election was being made or a requirement that the IRS be satisfied that treaty relief was applicable. Ordinarily, the election would be made before the first disposition of stock in a foreign corporation which would be taxable if the election had been made before that first disposition. Where it deemed it to be appropriate, however, the IRS could permit the election to be made after the first disposition, provided satisfactory arrangements were made for the payment of an amount equal to the tax on any dispositions made prior to the election which would have been owing on the dispositions (if the election had been made prior to the first disposition) and an appropriate interest charge for the period since the time at which that tax would have been required to have been paid. In the case of dispositions of stock in foreign corporations made prior to the conference committee's action, it is contemplated that the election may be made retroactively, provided satisfactory arrangements are made for the payment of tax on the stock sale. (For example, if amounts were withheld by the buyer on the purchase of the foreign corporation's stock or were deposited in an escrow account for the satisfaction of the seller's tax liability on the stock sale, the election might be permitted if those funds were made available to satisfy the seller's tax liability.)

(ii) *Partnership, trusts, and estates.*—Gain on the disposition of an interest in these entities also would not be subject, in its entirety, to tax. Instead, a foreign investor in such an entity would be taxable on the disposition of his interest to the extent that the gain represented his pro rata share of appreciation in the value of U.S. real property interests of the entity.

(iii) *REITs.*—Distributions by a real estate investment trust (REIT) to foreign shareholders would be treated as gain on the sale of U.S. real property to the extent of the shareholders' pro rata share of the net capital gain of the REIT. In the case of REITs which are controlled by U.S. persons, sales of the REIT shares by foreign shareholders would not be subject to tax (other than in the case of distribution by the REIT).

4. Nonrecognition rules

House bill.—The Secretary would be authorized to prescribe regulations providing the extent to which nonrecognition rules would (or would not) apply under the bill. Pending the issuance of these regulations, nonrecognition provisions of the Code would apply, but only in the case of an exchange of a U.S. real property interest for an interest the disposition of which would be taxable under the Code (as modified by any treaty pursuant to sections 894 and 7852(d)).

Senate amendment.—Similar to the House bill, but without a rule prescribing treatment prior to the issuance of regulations.

Conference agreement.—Follows the House bill, but also allows prescription of regulations determining the extent to which transfers of property in reorganizations are to be treated as sales at fair market value. Similar rules apply in the case of partnerships, trusts, and estates.

5. Withholding

House bill.—No provision.

Senate amendment.—The withholding requirement would apply only if the purchaser knows or has received a notice that the seller is a foreign person. The seller is required to notify the purchaser that the seller is a foreign person. The seller's agent is also required to notify the purchaser that the seller is a foreign person if the agent has reason to believe that the seller may be a foreign person. The amount to be withheld is the smallest of (i) 28 percent of the sales price, (ii) the "seller's maximum tax liability" (discussed below), or (iii) the fair market value of that portion of the sale proceeds which is within the withholder's control. The "seller's maximum tax liability" is the maximum amount which the Treasury determines that the seller could owe on his gain on the sale plus any unsatisfied prior withholding tax liabilities of prior foreign owners with respect to that property.

A purchaser would not be required to withhold if: (i) the property being sold is a single family residence which is to be used by the purchaser as his principal residence and the amount realized by the seller on the sale is $150,000 or less, (ii) the property being sold is stock of a corporation and the sales transaction takes place on an established securities market or (iii) the seller obtains a "qualifying statement" from the Treasury that he is exempt from tax or he has provided adequate security or has otherwise made arrangements with Treasury for the payment of the tax. The Treasury may prescribe a reduced amount to be withheld under similar procedures.

Conference agreement.—The conference agreement follows the House bill. The Senate conferees had proposed that the tax imposed under the conference agreement be enforced by the withholding provisions contained in the Senate bill, modified in several respects.[1] The House conferees refused to agree to the withholding provisions in the conference agreement. The conferees agreed it would be necessary to structure withholding provisions carefully to ensure that they would not inadvertently disrupt the U.S. real estate market or expose U.S. buyers or U.S. agents of foreign sell-

[1] The withholding provisions of the Senate amendment would be modified to provide that neither the purchaser nor any settlement agent would be required to withhold unless he has actual knowledge that the seller is foreign or has received a notice from a seller's agent. The seller's agent would be relieved of any responsibility to give such a notice if he relies in good faith on a statement from the seller (or, in the case of a seller's agent retained by another seller's agent, from the seller's agent who retained him) that the seller is a U.S. person or, if the seller is foreign, that the seller notified the purchaser. A second modification proposed to the Senate bill withholding provisions was that if the purchaser assumes a debt of the seller or took the property subject to a debt of the seller, which was incurred within one year prior to the sale, that amount of the consideration would also be subject to withholding. A final modification would have set forth in greater detail the circumstances under which withholding might be reduced or waived. The taxpayer would be permitted to reduce (or eliminate) the amount of withholding by filing a return stating the basis for the property and the character of the contemplated gain. The IRS would be required to accept that basis and character for withholding purposes unless the IRS responded within 30 days specifying a lower (or zero) basis or different character if the IRS were not satisfied that the amount to be withheld would be sufficient to cover the taxpayer's underlying liability.

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ers of U.S. real estate to liability where such liability would not be appropriate. Given this potential, the House conferees took the position that withholding provisions should not be adopted until they could be more fully considered by the committees and the public had adequate opportunity to consider and comment on the proposed withholding mechanism. The conferees agreed that, until and unless withholding provisions were adopted by a subsequent Congress, the tax should be enforced through information reporting as discussed below.

6. Reporting

a. Returns to identify whether an entity is an RPHO

House bill.—If, at any time during a calendar year, (i) an entity beneficially owns U.S. real property interests which constitute more than 40 percent of the fair market value of the assets taken into consideration in determining whether or not it is an RPHO and (ii) at least one foreign person has an interest (other than a portfolio interest in publicly-traded stock) in the entity, the entity is required to file an information return for the year. The return is to set forth the name and address of any foreign person who held an interest, whether the entity is an RPHO at any time during the calendar year, and other information which the Treasury may prescribe by regulations.

Senate amendment.—If, at any time during a calendar year, (i) an entity has U.S. real property interests which constitute more than 40 percent of the fair market value of its assets, (ii) 10 or fewer persons have a controlling interest in the entity, and (iii) at least one foreign person has an interest in the entity, the entity is required to file an information return for the year. The information required is similar to the information required under the House bill.

Conference agreement.—The conference agreement deletes the requirement that entities file returns establishing whether or not they are RPHOs. Under the conference agreement, an entity (or a person owning an interest in the entity) may on a voluntary basis file a return, containing such information as may be required by the IRS, establishing that the entity is not an RPHO.

b. Returns to identify foreign owners

House bill.—Foreign owners of U.S. real estate who are not subject to the return requirements described above the generally required to file returns showing (i) the name and address of the person, (ii) a description of all U.S. real property interests held by such person, and (iii) such other information as the Treasury may prescribe by regulations.

Senate amendment.—No provision.

Conference agreement.—The conference agreement generally follows the House bill with several modifications.

U.S. corporations which are U.S. real property holding corporations or which were U.S. real property holding corporations at any time during the preceding 4 years will be required to file annual returns setting forth the name and the address (if known by the corporation) of each foreign shareholder (other than shareholders owning stock which is publicly traded, any information required by

the Secretary with respect to transfers of stock in the corporation by such foreign shareholders and any other information which the Secretary may prescribe by regulations. Any nominee holding stock in a U.S. corporation on behalf of a foreign person is required to file a return in the same manner as the corporation is required. No requirement for reporting with respect to publicly traded stock is imposed because information with respect to foreign shareholders holding more than 5 percent of any publicly traded class of stock in a U.S. corporation (less than 5 percent shareholders are not taxable on the disposition of their stock) should be readily available from the SEC.

Foreign corporations and partnerships, trusts, or estates (whether foreign or domestic) are required to file annual returns setting forth the name and address of each foreign person who has a substantial indirect investment in U.S. real property through the entity, such information with respect to the assets of the entity, and such other information as the Secretary may prescribe by regulations. For this purpose, a foreign person having a substantial indirect investment through the entity would include any foreign person whose pro rata share of the U.S. real property interests held by the entity exceeded $50,000 at any time during the calendar year. Any entity required to make such a return is also required to furnish each of the foreign persons holding a substantial investment in U.S. real property through that entity a statement showing the name and address of the entity, the substantial investor's pro rata share of the U.S. real property held by the entity and such other information as is required by regulations. In determining whether the pro rata share of any foreign person's beneficial interest in the real property held by the entity exceeds $50,000, the entity's pro rata share of any real property interest held by any other such entity in which the first entity holds a beneficial interest, and interests in the first entity held by the person's family, shall also be taken into account.

These reporting requirements will not apply to any entity for any calendar year where the entity furnishes the IRS with such security as the IRS determines to be necessary to ensure that any U.S. tax with respect to U.S. real property interests held by such entity will be paid. It is expected that the security which the IRS would consider to be satisfactory for this purpose would depend upon the circumstances. Thus, for example, in the case of a foreign corporation the only asset of which is a tract of undeveloped U.S. real estate, the IRS might require a recorded security interest in the real estate, a guarantee by a person from whom the IRS would be reasonably certain it could collect the unpaid tax, or some similar type of security. On the other hand, in the case of a foreign corporation engaged in a U.S. trade or business with a variety of U.S. assets and where the circumstances indicated that it was improbable that the foreign corporation would attempt to liquidate and remove its assets from the United States without satisfying its U.S. tax liability, the IRS might only require an undertaking by the foreign corporation to pay the tax in a closing agreement or some similar security. Where an arrangement is reached with the IRS, the entity is not required to report the identity of the foreign persons holding interests in the entity and, in addition, the foreign person is not required to take its pro rata interest in the entity into ac-

count in determining its own reporting requirements. Where the foreign corporation was unable to supply the necessary information to the IRS as to the identity of its shareholders because, for example, its stock is in bearer form or was held by nominees unwilling to disclose the identity of the beneficial owner, it would be required to provide security satisfactory to the IRS.

A separate reporting requirement applies to foreign persons owning U.S. real property who are not required to file a return under section 6039C(b) for the year. Where such a foreign person did not engage in a trade or business in the United States at any time during the calendar year and the fair market value of the U.S. real property interests held by the foreign person at any time during the year equals or exceeds $50,000, the foreign person is required to file a return setting forth his (or its) name and address, a description of all U.S. real property interests held at any time during the calendar year and such other information as is required by regulations. "Look through" and family attribution rules apply to determine whether a person is a substantial investor.

c. Failure to make a return or furnish a statement

House bill.—A penalty for failure to file a tax return or to furnish a statement required under the rules described above will be imposed in an amount equal to $25 for each day during which such failure continues but not to exceed $25,000. Also, in the case of a failure by a foreign person to file a return required by the rules set forth in (b) above, the penalty for any calendar year cannot exceed 5 percent of the aggregate of (i) the fair market value of the U.S. real property interests owned by that person at any time during the year and (ii) the face amount of the U.S. real property interest installment obligations.

Senate amendment.—A penalty for failure to file a tax return or to furnish a statement will be imposed in an amount equal to the greater of (i) $25 a day during which the failure continues, but not to exceed $25,000, or (ii) the amount of the tax under the bill which is not paid and which is attributable to transfers (other than those made in an established securities market) occurring during the calendar year for which the return or statement was required.

Conference agreement.—The conference agreement generally follows the House bill.

In the case of each failure to file a return containing the information required by these information reporting requirements or to furnish the statement to a beneficial owner of an interest of its pro rata share of the U.S. real property assets held by the entity, a penalty is imposed of $25 for each day during which the failure continues (but not to exceed $25,000 for the calendar year) unless it is shown that the failure is due to reasonable cause and not to willful neglect. A further limitation to the penalty applies in the case of a failure of a foreign person to disclose his U.S. real property interests (sec. 6039C(c)). In the case of such a failure, the penalty is not to exceed 5 percent of the aggregate fair market value of the U.S. real property interests held by the person at any time during the year.

7. Effective date

a. General rule

House bill.—The bill would apply to dispositions after June 18, 1980.

Senate amendment.—The Senate amendment would apply to dispositions after December 31, 1979, except those made pursuant to a contract binding at all times after December 6, 1979.

Conference agreement.—The conference agreement generally follows the House bill and would apply to dispositions after June 18, 1980. However, no step-up in basis would be allowed with respect to a disposition made to a related party (within the meaning of Code section 453(f)(1)) in a nontaxed transaction after December 31, 1979.

b. Tax treaties

House bill.—Until January 1, 1985, gain would not be taxed to the extent required by treaty obligations of the U.S. On and after that date, the provision would prevail over any conflicting treaty provisions remaining in effect.

Senate amendment.—Same as House bill.

Conference agreement.—The conference agreement generally follows the House bill and the Senate amendment, but no step-up in basis would be allowed with respect to a disposition made to a related party which is exempt from the tax imposed by the bill solely because of delays of the effective date attributable to conflicting treaty obligations. In situations where a treaty is renegotiated to resolve conflicts between the treaty and the conference agreement, the delay in the effective date of the conference agreement can be extended in the revised treaty or an accompanying exchange of notes for a period of up to two years after the signing of the revised treaty in order to permit the Senate adequate time to consider the revised treaty.

D. Windfall Profit Tax

1. Royalty owners credit

House bill.—No provision.

Senate amendment.—The Senate amendment provides royalty owners with a credit (or refund) of up to $1,000 against the windfall profit tax imposed on the removal of their royalty oil during calendar year 1980. The credit is available only to individuals, estates, and family farm corporations and not to other corporations or to trusts. In the case of a family, the husband and wife and their minor children are treated as one taxpayer for purposes of the $1,000 limit on the credit. A qualified family farm corporation that is eligible for the credit is one which (1) was in existence on June 25, 1980, (2) all of the outstanding stock of which was held by members of the same family at all times between July 24, 1980, and January 1, 1981, and (3) 80 percent of the assets of which was used for farming purposes.

The Senate amendment also requires that in calculating the amount of income tax deduction for the windfall profit tax, net income for percentage depletion purposes, and oil related income for the minimum tax on intangible drilling costs, a taxpayer must reduce the gross amount of windfall profit tax paid or withheld during the taxable year by the amount of the credit allowable against that tax. This reduction of the income tax deduction must be made regardless of whether the taxpayer actually claims the allowable credit.

Conference agreement.—The conference agreement follows the Senate amendment.

2. Stripper oil exemption

House bill.—No provision.

Senate amendment.—The Senate amendment provides for an exemption from the windfall profit tax for up to 2 barrels a day of stripper well production for each stripper well from which the producer receives production. This exemption applies to oil removed in the four quarters of fiscal year 1981.

Conference agreement.—The conference agreement follows the House bill.

3. Modification of inflation adjustment

House bill.—No provision.

Senate amendment.—Under present law, the windfall profit tax is imposed on the difference between the selling price of each barrel of domestic crude oil and its adjusted base price for the calendar quarter during which it is removed. The adjusted base price is determined by increasing the base price to take account of inflation between the second quarter of 1979 and the second quarter prior to the quarter for which the adjusted base price is being determined. In the case of newly discovered oil, heavy oil and incremental tertiary oil, the adjusted base price is determined by using the rate of inflation plus 2 percent per year.

The Senate amendment would adjust the otherwise applicable adjusted base price for each calendar quarter in fiscal year 1981 by subtracting an amount equal to 10.9 percent of that adjusted base price.

Conference agreement.—The conference agreement follows the House bill.

E. Inclusion in wages of Social Security and Unemployment Taxes Paid by Employers

House bill.—Under present law, employer payment of an employee's liability for social security taxes or State unemployment compensation taxes (without deduction from the remuneration of the employee) is specifically exempted from wages for purposes of social security taxes (FICA), Federal unemployment taxes (FUTA), and social security benefits.

The House bill provides that the payment by an employer of an employee's liability for social security taxes or State unemployment compensation taxes would be included in the definition of wages for purposes of FICA, FUTA, and social security benefits. However, this provision would not apply with respect to payments for domestic service in the employer's home.

The provision generally would be effective with respect to remuneration paid after December 31, 1980. However, in the case of certain State, political subdivision, or other State or local coverage group employment under section 218 of the Social Security Act, the provision would apply with respect to remuneration paid after December 31, 1983. This later effective date would apply only to remuneration for services in positions of a kind for which all, or a substantial portion of the amounts equivalent to employee social security taxes were paid (without deduction from the wages of the employee) under the practices in effect on June 18, 1980.

Senate amendment.—The Senate amendment is similar to the House bill except that it does not apply to: (1) employer payment of employee State unemployment compensation taxes or (2) agricultural labor. In addition, the December 31, 1983, effective date for certain State and local govenmental units would apply to payments of amounts equivalent to employee social security taxes if these amounts were paid (without deduction from remuneration of the employee) under practices that were in effect on July 26, 1980.

Conference agreement.—The conference agreement follows the House bill with two modifications. Under the conference agreement, agricultural labor would be excluded from the application of the provision. In addition, the later effective date with respect to certain State and local governmental units would apply to payments of amounts equivalent to employee social security taxes if these amounts were paid (without deduction from remuneration of the employee) under practices that were in effect on October 1, 1980.

Concerning the application of these amendments to State and local governments, the conferees wish to emphasize that the general rule with respect to social security taxation is that all forms of remuneration constitute wages for social security tax purposes unless specifically exempted by statute. Payments by State and local governments of the equivalent of employee social security taxes for their employees, since these payments represent a benefit to the employees from their employer, constitute "remuneration" within the meaning of the Act and the Code but for the exception which is being eliminated by this provision.

F. Telephone Excise Tax

House bill.—Present law imposes an excise tax on amounts paid for communications services (local telephone service, toll telephone service and teletypewriter service). The tax is 2 percent for 1980 and 1 percent for 1981. The tax is to expire on January 1, 1982.

The House bill delays the reduction and expiration of the tax by one year. Under the House bill, the tax is 2 percent for 1980 and 1981 and 1 percent for 1982. The tax is to expire on January 1, 1983.

Senate amendment.—The Senate amendment is the same as the House bill.

Conference agreement.—The conference agreement follows the House bill and the Senate amendment.

G. Increased Duties on Imported Alcohol

House bill.—No provision.

Senate amendment.—Under present law, imports of ethyl alcohol for nonbeverage purposes are dutiable at a most-favored-nation (MFN) rate of 3 percent *ad valorem* and a non-MFN rate of 20 percent *ad valorem* under item 427.88 of the Tariff Schedules of the United States (TSUS).

The Senate amendment amends the Appendix to the TSUS to impose, in addition to the existing duty on MFN and non-MFN imports of ethyl alcohol for non-beverage purposes, an additional duty of 40 cents per gallon on imports of ethyl alcohol to be used in or as a fuel from the date of enactment through December 31, 1992.

Conference agreement.—The conference agreement amends the Appendix to the TSUS to impose, in addition to the existing duty on MFN and non-MFN imports of ethyl alcohol for non-beverage purposes, an additional duty on imports of ethyl alcohol to be used in or as a fuel. This additional duty is 10 cents per gallon in calendar year 1981, 20 cents per gallon in calendar year 1982, and 40 cents per gallon from January 1, 1983, through December 31, 1992.

H. Revenue Effects of Title XI

The revenue effects of the conference agreement on title IX are summarized in the two tables below. Table 1 shows the effects on budget receipts for fiscal years 1981 through 1985; table 2 depicts the effect on tax liabilities for calendar years 1980 through 1985.

The revenue gain from the provision requiring large corporations to be at least 60 percent current with estimated tax payments represents changes in timing of tax payments and does not increase their tax liability. All the other changes represent increases in tax liability.

TABLE 1.—ESTIMATED BUDGET EFFECTS OF THE REVENUE RECONCILIATION PROVISIONS OF H.R. 7765, AS APPROVED BY THE CONFERENCE, FISCAL YEARS 1981–85

[In million of dollars]

Item	1981	1982	1983	1984	1985
A. Mortgage subsidy bonds	256	1,305	3,330	6,320	10,242
B. Cash management—estimated to payment	3,063	475	457	394	402
C. Foreign investment in U.S. real estate	42	92	102	111	123
D. Windfall tax royalty credit	−180				
E. Payroll taxes paid by employers	44	76	118	217	328
F. Telephone excise tax	358	570	193		
G. Alcohol import duty	12	15	9	3	
Total	3,595	2,533	4,209	7,045	11,095

TABLE 2.—ESTIMATED BUDGET EFFECTS OF THE REVENUE RECONCILIATION PROVISIONS OF H.R. 7765, AS APPROVED BY THE CONFERENCE, CALENDAR YEARS 1981–85

[In millions of dollars]

Item	1980	1981	1982	1983	1984	1985
A. Mortgage subsidy bonds		618	2,275	4,821	8,432	12,794
B. Cash management—estimated tax payments						
C. Foreign investment in U.S. real estate	42	92	102	111	123	135
D. Windfall tax royalty credit	−180					
E. Payroll taxes paid by employers		56	81	127	239	350
F. Telephone excise tax		358	570	193		
G. Alcohol import duty		16	15	7	2	
Total	−138	1,140	3,043	5,259	8,796	13,279

ARMED SERVICES

The Senate amendment, but not the House bill, contains a provision which provides that the current semi-annual increase in military retired pay be replaced with an annual adjustment. The Senate amendment would provide for a similar change in retirement programs for the Central Intelligence Agency, the Public Health Service, and the National Oceanographic and Atmospheric Administration. However, no changes to retired pay adjustments would be made unless similar changes are made for Federal civilian retirees.

The Senate recedes. The conferees agreed that the semi-annual increase should be retained if the semi-annual increase were retained for civilian retirees. Since the Committee of Conference

agreed in title IV-A to retain such increase for civilian retirees, the conferees agree to delete this provision from the conference agreement.

Railroad retirement

House bill.—The House bill proposed seven specific benefit modifications and a .25 percent increase in the Tier II tax rate, from 9.5 percent to 9.75 percent of covered payroll, both effective for Fiscal Year 1981 only. In addition, the benefit modifications were to affect only annuitants whose annuities first began to accrue in Fiscal Year 1981. The benefit modifications were estimated to result in savings of $24.3 million and the tax rate increase was estimated to yield $27.5 million in new revenue. In addition, railroad labor and management were directed to submit a joint proposal to Congress by the end of this year. The proposal was to represent a long-term solution to the problems of the Railroad Retirement System.

Senate amendment.—No provision.

Conference substitute.—The House recedes. The Conferees do not believe the recommendations in the House bill represent an appropriate approach to solving the long-term financial problems of the Railroad Retirement System. The Conferees are aware of the serious nature of these problems and fully intend that railroad labor and management continue their negotiations aimed at developing a joint proposal for solving the financial problems of the Railroad Retirement System.

For consideration of the entire bill (including title I through title IX of the House bill, section 1 through title IX of the Senate amendment, and the title of the bill):

ROBERT N. GIAIMO,
THOMAS L. ASHLEY,
WILLIAM M. BRODHEAD,
LEON E. PANETTA,

For title II of the Senate amendment:

From the Committee on Armed Services:

MELVIN PRICE,
BILL NICHOLS,
ROBERT H. MOLLOHAN,
LESS ASPIN,
BOB WILSON,
DONALD J. MITCHELL,

For title II, subtitle A of the House bill and title I of the Senate amendment:

From the Committee on Education and Labor:

CARL D. PERKINS,
IKE ANDREWS,
GEORGE MILLER,

For title II, subtitle C of the House bill and title VII of the Senate amendment:

From the Committee on Education and Labor:

CARL D. PERKINS,
WILLIAM D. FORD,
JOHN BRADEMAS,
MARIO BIAGGI,
JOHN M. ASHBROOK,
JOHN BUCHANAN,

For title IV of the House bill and title VI of the Senate amendment:

From the Committee on Post Office and Civil Service:

JAMES M. HANLEY,
WILLIAM D. FORD,
WILLIAM L. CLAY,
EDWARD J. DERWINSKI,
GENE TAYLOR,

For title II, subtitle B of the House bill:

From the Committee on Education and Labor:

CARL D. PERKINS,
EDWARD P. BEARD,
PHILLIP BURTON,
GEORGE MILLER,
JOHN M. ASHBROOK,
JOHN N. ERLENBORN,

For title V, subtitle A of the House bill and section 401 of the Senate amendment:

From the Committee on Public Works and Transportation:

HAROLD T. JOHNSON,
GLENN M. ANDERSON,
JAMES J. HOWARD,
RAY ROBERTS,
BUD SHUSTER,
GENE SNYDER,

For title V, subtitle A of the House bill and section 301 of the Senate amendment; for title V, subtitle B of the House bill and section 302 of the Senate amendment; and for section 304 of the Senate amendment:

From the Committee on Public Works and Transportation:

HAROLD T. JOHNSON,
GLENN M. ANDERSON,
JAMES J. HOWARD,
RAY ROBERTS,
BUD SHUSTER,
GENE SNYDER,

For title III, subtitle C of the House bill and section 303 of the Senate amendment:

From the Committee on Interstate and Foreign Commerce:

HARLEY O. STAGGERS,
JIM SANTINI,
JAMES J. FLORIO,
BARBARA A. MIKULSKI,
JAMES T. BROYHILL,
EDWARD R. MADIGAN,

For title VII of the House bill and title VIII of the Senate amendment:

From the Committee on Veterans' Affairs:

RAY ROBERTS,
DAVID E. SATTERFIELD III,
G. V. MONTGOMERY,
W. G. HEFNER,
JOHN PAUL HAMMERSCHMIDT,
MARGARET M. HECKLER,

For title III, subtitle B of the House bill:

From the Committee on Interstate and Foreign Commerce:

HARLEY O. STAGGERS,
JIM SANTINI,
JAMES J. FLORIO,
BARBARA A. MIKULSKI,
JAMES T. BROYHILL,
EDWARD R. MADIGAN,

From the Committee on Ways and Means:

AL ULLMAN,
DAN ROSTENKOWSKI,
JAMES C. CORMAN,
SAM GIBBONS,
J. J. PICKLE,
CHARLES B. RANGEL,
WILLAIM R. COTTER,

For title III, subtitle A, and title VIII, subtitle A of the House bill, and title V, part F of the Senate amendment:

From the Committee on Interstate and Foreign Commerce:

HARLEY O. STAGGERS,
HENRY A. WAXMAN,
DAVID E. SATTERFIELD III,
RICHARDSON PREYER,
JAMES T. BROYHILL,
TIM LEE CARTER,

From the Committee on Ways and Means:

AL ULLMAN,
DAN ROSTENKOWSKI,
JAMES C. CORMAN,
SAM GIBBONS,
J. J. PICKLE,
CHARLES B. RANGEL,
WILLIAM R. COTTER,
GUY VANDER JAGT,

For title VIII, subtitles B, C, and D of the House bill and title V, parts A, B, C, D, E, and G of the Senate amendment:

From the Committee on Ways and Means:

AL ULLMAN,
DAN ROSTENKOWSKI,
JAMES C. CORMAN,
SAM GIBBONS,
J. J. PICKLE,
CHARLES B. RANGEL,
GUY VANDER JAGT,

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For title IX of the House bill and title IX of the Senate amendment:

From the Committee on Ways and Means:

AL ULLMAN,
DAN ROSTENKOWSKI,
JAMES C. CORMAN,
SAM GIBBONS,
J. J. PICKLE,
CHARLES B. RANGEL,
WILLIAM R. COTTER,
GUY VANDER JAGT,
Managers on the Part of the House.

For consideration of the entire bill (including title I through title IX of the House bill, section I through title IX of the Senate amendment, and the title of the bill):

ERNEST F. HOLLINGS,
DANIEL PATRICK MOHNIHAN,
J. JAMES EXON,
HENRY BELLMON,
PETE V. DOMENICI,

For title II of the Senate amendment:

From the Committee on Armed Services:

SAM NUNN,
HARRY F. BYRD, Jr.,
ROGER JEPSEN,

For title II, subtitle A of the House bill and title I of the Senate amendment:

From the Committee on Agriculture, Nutrition, and Forestry:

HERMAN E. TALMADGE,
GEORGE MCGOVERN,
WALTER D. HUDDLESTON,

For title II, subtitle C of the House bill and title VII of the Senate amendment:

From the Committee on Labor and Human Resources:

HARRISON A. WILLIAMS, Jr.,
JENNINGS RANDOLPH,
CLAIBORNE PELL,
RICHARD S. SCHWEIKER,
ROBERT T. STAFFORD,

For title IV of the House bill and title VI of the Senate amendment:

From the Committee on Governmental Affairs:

ABRAHAM RIBICOFF,
JOHN GLENN,
DAVID PRYOR,
CHARLES H. PERCY,
TED STEVENS,

For title II, subtitle B of the House bill:

From the Committee on Labor and Human Resources:

HARRISON A. WILLIAMS, Jr.,
JENNINGS RANDOLPH,
CLAIBORNE PELL,
RICHARD S. SCHWEIKER,
ROBERT T. STAFFORD,